

# Public Utilities

FORTNIGHTLY



VOL. XV; No. 5

FEBRUARY 28, 1935

## The Federal Power Commission and the Power of Politics

### No. 1. Early obstacles and struggles

THE purpose and defects of the early laws, the conflict of interests sought to be harmonized, and the tangles which arose in their administration make an interesting story of politics and economics which is not yet ended. After nearly fourteen years of difficulty the commission which from the beginning has been involved in acrimonious controversy seems, in the judgment of the author, to have entered upon better days.

By E. PENDLETON HERRING

**T**HE power question has become a national issue. It directly concerns every American household and every American business. Our domestic comfort as well as our national prestige depends upon our working out a practical and constructive solution of the many problems which it involves. That is the objective of the Federal Power Commission.

(Address of Vice Chairman Manly before City Club of Boston, March 9, 1934.)

**T**ODAY the future of the electric power industry and the success of the Federal Power Commission

hang together in the balance. The events of the next year or two will be of crucial importance to both. The present situation marks the climax of forces that have been gathering for years.

Can we reconstruct from the tangle of past events the elements that explain present developments and point the direction of future trends?

The Federal Power Commission has met with more obstacles than any other Federal regulatory board. It has been in the thick of politics from its very beginning. Now after nearly fourteen years of difficulty it seems to

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have entered upon better days. Yet the power question is a hotter political question than ever.

What chance has this so-called independent administrative commission of carrying through its objective? To answer this question we accept Al Smith's famous formula: "Let's have a look at the record."

**T**HE Federal Power Commission took its place in the Federal administration as the product of a bitter and protracted legislative struggle between the conservationists and the water-power interests. Congress had long been their battle ground. Here the legislators were torn between satisfying the cry for strict regulation and the demand for free and rapid development of power resources.

The first general water-power legislation, put through Congress in 1910, defeated its own purpose by making too many concessions to both the grabbers and the conservationists. The enactment of the Water Power Act of June 10, 1920,<sup>1</sup> established the Federal Power Commission and marked a victory for the forces striving to extend Federal control.

The political turmoil that immediately marked the inception of the act has characterized likewise its subsequent administration.

"Just one more commission!" exclaimed a critical Congressman when the measure was brought up. "Just one more arm of Congress which will be stronger than Congress itself. The bill is bureaucratic, written by bureau chiefs, and endorsed by three secretaries. It gives no western states any hand in the control of water power

within their confines and no share in any of the returns."

**A**N infringement of states' rights was seen by Representatives and Senators from the far West and the South where quick water-power development was desired. Westerners objected to strengthening Federal jurisdiction because of the power that the government already held through its control of the public domain in their states. Opposition to conservation was voiced by the Eastern and Middle-western investors in private water-power enterprises. The electrical industry presented a united opposition for years, although after 1911 a faction friendly to conservation appeared.

In the years just before the World War the conservationists built up a well-organized and ably directed lobby. They saw their opportunities and they took them. They used the prestige of presidential support, and they found allies in the Forest Service, the Interior Department, in the War Department, and among the House Committees. They regarded themselves as the guardians of the people's rights and they successfully identified their cause with the public welfare before the country.

**T**HAT regulation of the water-power industry was necessary Congress conceded. An *ad hoc* regulatory body was its contribution to a problem demanding leadership of the first order. The proper control of water power meant both the conservation of natural resources and the development of the electrical wealth in the streams and rivers. The creation of the Federal Power Commission did

<sup>1</sup> 41 Stat. 1063.

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not reconcile this paradox—it merely shifted the scene of conflict. Relieving Congress of this burden and placing it before a body of qualified administrators might in time have brought a solution but the commission established was woefully inadequate in the light of its responsibilities.

This body was composed of the Secretary of the Interior, the Secretary of War, and the Secretary of Agriculture, all serving *ex officio*. The statute provided for a full-time executive secretary at a salary of \$5,000. The work of the commission was to be performed by the engineering, technical, and clerical personnel of the three departments represented by their secretaries. The duties of the board were to collect data on the utilization of water-power resources and the power industry and to issue licenses for developing water power on navigable streams or waters on the public lands of the United States.

REASSURED by the existence of this agency the conservationists lost somewhat the drive toward a definite goal that had fired their zeal and justified their agitation. Their scrutiny relaxed. Postwar problems absorbed the attention of the public. But the power interests were very vitally concerned in what the government proposed to do. The promoters and de-

velopers of the industry, the hydro-electric engineers in their employ, the bond brokers, the real estate agents—all turned their attention to the Federal Power Commission and focused it upon the solitary executive secretary who bore the brunt of the labor and responsibility.

Congress had attempted to dispose of a complicated problem that for years had occasioned bitter debate by emptying the whole matter into the hands of an administrative agency and then washing its own hands of the matter. How were the officials now to execute the Water Power Act in the public interest? The terms of the statute were broad.

The law as finally enacted has aptly been called a kind of hybrid. It reflected the long struggle between the private operators and those favoring government ownership. The statute provided for the licensing or leasing of Federal power sites for a period not to exceed fifty years and for possible recapture by the Federal government or transfer to a state or municipality upon compensation equal to the net investment.

ON its face, the statute indicated the purpose of Congress to provide for the improvement of navigation and the development of water power through the instrumentality of



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private and governmental agencies which the commission was to license. The valuable privilege of generating electrical power from the streams under the jurisdiction of the Federal government was to be granted under conditions that would promote the fundamental conservation purposes of the act and at the same time protect the consumers of the generated power against exorbitant charges.

The act contained one provision for guiding the commission as to the policy to be pursued in the allotment of water-power facilities. Section 7 stated that the commission should give preference to applications by states and municipalities if their plans were as well adapted as those of private applicants for conserving and utilizing in the public interest the navigation and water resources of a region. As between private firms the commission should consider the relative ability of the applicants to carry out plans best adapted to utilize water-power resources in the public interest.

What actual conditions should the applicant meet? What plans could best carry out the public interest? Despite the detailed provisions of the act its purposes were open to broad differences in interpretation.

**N**EVERTHELESS, the bill was hailed hopefully as marking "the end of the period of discussion and controversy which for more than a decade had been waged both in Congress and outside over a national policy with respect to water power under Federal control."<sup>3</sup> Certainly the measure was an improvement in contrast with the

entirely unsuitable acts of 1901 and 1910 passed when there was little understanding of the significance of electric power for industry and transportation. The new commission regarded the flood of applications for licenses as "abundant evidence both of the extent to which former legislation stood in the way of power development and of the generally satisfactory character of the present legislation."

The act made available privileges which industrialists were eager to secure but the law hedged these prizes about with certain provisions which they regarded as irksome. The power companies sought a liberal interpretation from the commission:

"While the rules and regulations of the commission were being considered," Chief Accountant King stated, "it was repeatedly asserted by representatives of the power interests that they had a part in the preparation and passage of the Federal Water Power Act, that they knew what was meant by certain passages and provisions of the act, and that Congress never intended that the act should be construed and administered as proposed by the commission's staff."<sup>3</sup>

**A**CCORDING to King's observations, the power interests even pressed the commission to recognize in their rules and regulations acts prohibited by the statute itself. They wished to render inoperative the statutory provisions relating to net investments, they objected to any regulation calling for the establishment of a depre-

<sup>3</sup> First Annual Report (1920) Federal Power Commission, p. 5.

<sup>3</sup> Hearings. Committee on Interstate and Foreign Commerce on H. R. 11408, 71st Cong., 2nd. sess. p. 36.



## Inadequacy of Early Commissions

**"I**t seems obvious that a strong administrative commission is essential if powerful economic forces are to be controlled. Yet, the Federal Power Commission as first established was entirely inadequate for the task confronting it. Practically all the work devolved upon the executive secretary and since his recommendations were almost always accepted by his superiors, one-man control resulted."



ciation reserve,<sup>4</sup> and they denied the authority of the commission to regulate accounting practices.<sup>5</sup> This controversy extended over a period of almost two years.

From the very beginning of its activities the commission had sought the advice and coöperation of those coming within its jurisdiction. Soon after the staff was organized in 1920, a draft of regulations relating to forms of applications, permits, licenses, etc., was drawn up by the commission and mailed to applicants, to officers of the National Electric Light Association, and to other interested persons for examination and criticism. Some written replies were received, and in August, 1920, a series of conferences was held between representatives of the commission and bankers, engineers, and representatives of the National Electric Light Association. The Water Conservation Committee of the Engineering Council of America was consulted as well as government officials concerned with public health, Indian rights, forest preservation, etc.

**T**HE regulations as amended by these conferences were approved by the commission and promulgated in September. These first regulations included matters covered in considerable degree by earlier departmental rules, but new and more complex problems remained. Intricate questions of finance and proper methods of accounting had to be considered. Preliminary drafts of rules were prepared and submitted to government officials and interested parties. Further conferences were held with the Engineering Council and with representatives of the N.E.L.A. to decide upon rules governing technical matters in order that the regulations be suited to the actual conditions of electrical development.

After extensive hearings the regulations were adopted and promulgated in February, 1921. Certain groups, notably the Empire State Gas and Electric Association, objected to some of the rulings relating to depreciation and amortization but the commission overruled the objections made to these rulings.<sup>6</sup>

<sup>4</sup> Second Annual Report, Federal Power Commission, p. 226.

<sup>5</sup> *Ibid.*, p. 244.

<sup>6</sup> Second Annual Report, Federal Power Commission, pp. 226 and 244.

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ON March 4th, a new administration came into power and new cabinet officers appeared on the commission. Upon the urgency of the Water Power Committee of the N. E. L. A. the matter was reopened and further hearings held. A group of bankers from Lee Higginson & Co., the Guaranty Trust Co., Harris, Forbes, & Co., and the Electric Bond & Share Co., were invited to attend and present their views. This conciliatory attitude on the part of the power commission was deliberate. Its first annual report carried this significant statement:

The coöperation which has been effected between the commission and other agencies, such as the American Engineering Council, the National Electric Light Association, and the National Association of Public Utility Commissioners is the expression of a definite policy on the part of the commission. It is charged under the provisions of the law with the protection of the public interest in the great national water-power resources, and this is its first duty. It is also its duty to encourage by every legitimate means the development of these resources for public use and enjoyment and in the interest of the country's economic progress. It believes that this development can best be hastened through united action; and it stands ready to coöperate with every agency, public or private, that is willing to approach mutual problems in a spirit of coöperation.<sup>7</sup>

IN November, 1921, the National Electric Light Association reopened the whole matter as to the requirements for accounting systems and at their request further hearings were granted. At this time both the law itself governing the commission and the commission's policy were attacked. As a result the commission asked its chief counsel to draw up an exhaustive opinion interpreting the

whole Water Power Act and also requested the N.E.L.A. and the National Association of Railroad and Public Utilities Commissioners to submit briefs. The chief counsel's final opinion was reviewed and approved by the Solicitors of the War, Interior, and Agricultural Departments, and then definitely adopted by the commission itself, thereby settling the matter. Since the regulations already adopted were in accordance with the powers and duties of the commission as thus interpreted, no changes further were made.<sup>8</sup> But the commission's policy of harmony and coöperation in regulation had received a rude blow.

This experience of the commission is significant as an outstanding case where outside interests were permitted to exercise great influence in the formulation of regulations.

MANY of the problems were technical and the rulings of the commission had to be adjusted to actual conditions if they were to prove workable. The task in law making here lay beyond the competence of a legislative assembly. Organized groups in the industry clearly acted as a check upon the administrative discretion of the power commission. The "public interest" lay at some undefined point between preventing selfish exploitation of the nation's power resources and encouraging companies to engage in the generation of electricity.

The executive secretary was speaking doubtless in good faith when he wrote that in rule making the commission and its staff "represent the public as other governmental agencies represent the public in performing the

<sup>7</sup> First Annual Report, Federal Power Commission for Fiscal Year ended June 30, 1921, pp. 19, 20.

<sup>8</sup> Annual Report for 1922, p. 3.

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duties with which they are charged by law."<sup>9</sup>

The fact remains, however, that representing the public interest is a matter of individual judgment. No objective standard is possible. The policy of the commission from 1920 to March, 1933, was that of the Harding, Coolidge, and Hoover administrations. The commission, for example, in its Annual Report for 1931 (p. 10) stated that "excursions into management in the name of regulation should be avoided. Results can be asked and required by the regulatory bodies, but the choice of means and the discovery of methods can better be left to private initiative."

AT that time the "public interest" dictated that the commission should do no more than supervise the development of power by private enterprise.

"That is a complete misconstruction of the intent of Congress as embodied in the Federal Water Power Act of 1920," the present vice chairman of the commission recently declared. "That act clearly contemplated not only the formulation of a national power program after a thorough survey of the nation's power resources but specifically provided that the commission should submit recommenda-

tions to Congress whenever it deemed that any project should be developed by the Federal government itself."

Here the lapse of a few years has brought diametrically opposed interpretations of the statute.

The conclusion is clear that one cause for the relative insignificance of the Federal Power Commission during its early years was the policy of the Republican party. The cabinet members who were the *ex officio* members up to 1930 and Hoover's appointees after this time reflected the political character of their party. The commission's rôle was to be a negative one; its policy was to work in close accord with the water-power industry.

INTERNAL defects in personnel and organization, however, served to reduce the commission to a state of ineptitude and weakness that made it even more helpless than this negative policy of the administration warranted. Administrative inefficiency resulted from the commission's lack of control over its work. The distribution of water-power regulation among three departments plus this special commission made it impossible to determine clearly the cost of administration or to fix responsibility.

Since the law provided that the work of the commission should be performed through the technical, clerical, and other personnel of the depart-

<sup>9</sup> Quoted from private letter of Merrill to Comer. John Comer: Legislative Functions Administrative of National Authorities, p. 243.



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ments which were represented on the commission, the Comptroller General ruled that assistance could not be sought elsewhere and that it was optional with the department secretaries as to what extent they would undertake the work of the commission. The Bureau of the Budget turned down the request of the commission for increased appropriations, and appeals, of course, could not be taken to the congressional committees on appropriations.<sup>10</sup>

THE staff was confronted with a physical impossibility in keeping its work current. The commissioners wrote to the Director of the Budget in 1926 recommending amendments to the Federal Water Power Act so as to secure direct appropriations for all its activities, direct employment of personnel, and authority to use receipts from government dams to build a fund from which Congress might appropriate for the work of the commission. These proposals were rejected although nearly six years' experience had demonstrated the need for reform.

It seems obvious that a strong administrative commission is essential if powerful economic forces are to be controlled. Yet, the Federal Power Commission as first established was entirely inadequate for the task confronting it.

Practically all the work devolved upon the executive secretary and since his recommendations were almost always accepted by his superiors, one-man control resulted.<sup>11</sup> A commission of Cabinet officers meant a

shifting group of political leaders unfamiliar with the problems of the commission.

THE development of an intelligent policy was hardly to be expected by men who were able to give so little time to the problem. Nor could a consistent policy be carried out by a commission with an impermanent personnel. Before the commission had been in existence ten years the commission changed five times, twice with a clean sweep, there having been five different Secretaries of War, five different Secretaries of the Interior, and four different Secretaries of Agriculture. A rapid turnover in personnel is unfortunate in any administrative body but the condition was here aggravated by the fact that the commissioners were *ex officio*. They were therefore less likely to take a direct interest in the peculiar responsibilities of this regulatory body. Even when this occurred their short tenure and the pressure of other duties made almost impossible any consistent interpretation of the public interest in water-power development.

The permanent group of subordinate officials who might have provided some degree of continuity and consistency was lacking. Many of the administrative tasks were "farmed out" to the departments. Each department regarded jealously its contributions to the power commission.

WITH no guidance in policy, disagreement among experts in subordinate positions occurred. After trying for nearly nine years to regulate effectively water-power development, Secretary Merrill frankly joined forces with the industry and became

<sup>10</sup> Hearings, pp. 259-60. Testimony of Merrill.

<sup>11</sup> Hearings, p. 9.

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permanent chairman of the American section of the World Power Conference. His new salary was twice that received in governmental employ. He was discouraged with his losing struggle and with bucking the politicians. The service hereby lost an active, able, and experienced official. With the knowledge acquired during eleven years in the Forest Service, of which seven years were spent as chief engineer in charge of water-power work, Merrill collaborated with congressional committees in formulating water-power legislation and in supplying data and advice. He organized the Federal Power Commission and while sympathetically inclined to the power companies he did not fail to

stress the inadequacy of the commission's facilities as tested in actual practice. Political obstruction from without as well as weakness from within hampered effective administration.

**D**EFFECTS in organization can be put down as the second great cause of the commission's weakness. Congress had saddled a heavy burden upon an administrative body incapable of carrying the load. Other factors aggravated the inadequacy of the early power commission. These influences which constitute a colorful chapter in the history of the commission must be left to the concluding instalment of this article.

*The second and concluding article in this series will be published in the next issue of PUBLIC UTILITIES FORTNIGHTLY, out March 14, 1935.*



### Facts Worth Noting

FOR the twelve months ending last June the national radio advertising bill exceeded \$65,000,000.

IN New England, New York, New Jersey, and Pennsylvania, 168,000 farms in a total of 482,000 are supplied with electricity.

IN 1923 only one farm in ten in New England, New York, New Jersey, and Pennsylvania had electricity and in 1933 one in three was so supplied.

ONE midwestern city created a saving of \$1,340 one year in street lighting and in the following six months, automobile accidents increased 70 per cent at night.

THE manufactured gas industry in 1933 paid 11.4 per cent of its operating revenue for taxes. In 1932 taxes required 11 per cent of its operating revenue; in 1931, 9.7 per cent; 1930, 9.6 per cent; and 1929, 9.3 per cent.

THE cost of domestic electric service amounts to less than 1 per cent of the average wage earner's family budget, 33 per cent of which goes for food, 20 per cent for housing, 12 per cent for clothing, 4 per cent for fuel, while the remaining 30 per cent goes for miscellaneous items.



## Three Million Utility Investors Are Interested

In the accuracy of the propaganda in favor  
of the widespread Federal power projects

By HERBERT COREY

**L**ET me begin with a confession of faith. Or it may be an evidence of folly. Time will tell. Here it is:

I believe that Franklin D. Roosevelt, President of the United States, has no thought of doing anything that will injure the investors in the public utilities of the country. I have two reasons for this belief. He is too honest. And he is too smart.

But I am afraid that a situation is being created which is filled with dynamite for security owners. It seems to me this is a good time to have it taken out. Supported in great part by the claims made by the Tennessee Valley Authority a movement is gathering headway for the government ownership and operation of power resources in competition with private utilities. The proponents allege that tremendous savings can be secured to the users of electricity. David E. Lilienthal, the power specialist of the

TVA, has alleged that the application of the TVA rates to residential users of current would result in a saving of \$187,000,000 annually.

The reader may assume that these promised savings are made possible through the government's utilization of water power. In fact, of course, the public ownership program contemplates the use of water power wherever possible, but the promises are not based wholly on water. Private utilities also use water power in an increasing ratio. At last accounts approximately one third of the generating capacity was furnished by hydraulic plants. The very definite implication of the public ownership enthusiasts is that the savings they so cheerfully promise can be made only in publicly owned plants.

**M**R. Roosevelt's utterances contain no word indicating that he favors the national control of power



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production and the distribution of energy on Federal networks. He does state very clearly that the TVA is making a yardstick by which the cost of power production will be measured in all the 48 states "before we get through." It is obvious to him that "no community receiving good service at reasonable rates will seek to build or operate its own plant" but that the right to do so is a "birchrod in the cupboard to be taken down and used only when scolding fails to do any good."

There is nothing to be objected to by the most captious in these statements if the yardstick is accurate. The most successful utility companies are those which have furnished the best service at the cheapest rates. The history of the industry shows a declining curve of price charged to the consumer alongside an ascending curve of current production. If it were possible to say that it costs so much to generate so many thousand kilowatt hours and so much more to distribute it, without regard to locality, then the yardstick would be acceptable. But if it is contended that the lower costs claimed by Mr. Lilienthal under the TVA system have been secured as a direct result of government ownership and that similar savings could be secured elsewhere under government operation as opposed to private control, a different question is posed.

**I**T then becomes necessary to examine into the validity of the statement of costs of current production under government ownership, as exemplified in the operations of the TVA.

If a false statement of costs is being

put before the nation by the Tennessee Valley Authority the interests of the privately owned utilities are being unfairly assailed. If this proves to be the case it will be conceded that Mr. Roosevelt has been misled by his advisers. Every waking minute of his time is being intensively occupied on almost innumerable activities. He must of necessity rely for his facts on the statements of those in whom he has confidence. When the TVA alleges that it can produce and distribute electric energy at a cost which the private utilities cannot meet, that statement should be verified.

If that statement is true the difference in cost must be accounted for either on the ground that the TVA has a plant which cannot be matched in efficiency by a private plant—which is categorically challenged by its privately owned utility neighbors—or because of the superior efficiency under public ownership. If the latter claim is accurate it is obvious that the movement for the national ownership and operation of power sources and the distribution of current over Federal networks will gain tremendous impetus. If it is not true then not only the competing utilities and their security holders but the President of the United States should know it. The issue is squarely joined.

**I**F the claims of the TVA are not accurate then hundreds of thousands of investors in utilities are threatened with financial injury as the direct result of deception. The responsibility of the TVA is made definite here because it is on the statements of the members of the Tennessee Valley Authority that Mr. Roosevelt seems to

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have based his approval of the so-called yardstick, which is to be applied to privately owned companies everywhere. Wendell L. Willkie, president of Commonwealth and Southern, asserts that these statements are absolutely false. He charges that the yardstick is a cheat; that the governmental bookkeeping has been cooked.

Willkie says that the Muscle Shoals plant is carried on the books at \$35,000,000 less than it cost. He says the only tax paid by the TVA is 5 per cent on the wholesale price of current sold, which is 4 mills per kilowatt hour, while the private companies pay 15 to 20 per cent on a retail price of 2 cents per kilowatt hour. No private company, he says, can be financed at the rate charged the TVA by its backer, the United States government. The TVA does not charge overhead, interest on construction, its freight costs only two thirds of what private companies must pay, and it franks all its mails. He issues a challenge to the TVA to expose its bookkeeping to the light:

"We can undersell the TVA if we can get the same subsidy," he says.

**I**F Mr. Willkie's statements are true then there is no yardstick in the Tennessee valley. No such thing as fair competition can exist between the government-owned plants and the privately owned utilities. If his charges

are supported then the TVA has descended to the same ethical level which the supporters of government ownership insist some of the chief figures among the private utilities habitually occupy. The motive alleged seems to be the same in both cases. The utility magnates who have been under fire sought to sell their stocks to investors. The TVA—if found guilty of this charge—sought to sell to the entire nation confidence in their ability to conduct utility affairs more ably than their competitors.

"But if the salt has lost its savor wherewith shall it be salted?"

**T**HE controversy is of vital importance to the utility security owners of the United States. If the TVA can prove that on the same set-up, with an equally honest statement of capital costs, with no deductions for theories or good intentions, with an equally fair charge for overhead, with no hidden advantage due to the fact that it is a government concern, it can make a better showing than can privately owned concerns, the security holders in the latter may well feel alarm. The facts on which Mr. Willkie bases his charge are in black and white on the books of the TVA itself. They could be very easily verified. They should be examined by competent authority and presented to President Roosevelt for scrutiny.



**Q**"MR. ROOSEVELT'S utterances contain no word indicating that he favors the national control of power production and the distribution of energy on Federal networks. He does state very clearly that the TVA is making a yardstick by which the cost of power production will be measured in all the 48 states 'before we get through.'"

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As an executive charged with guarding the interests of all the citizenry and as a politician of the first order the President cannot permit a vestige of doubt to remain. The Willkie impeachment of the TVA's claims has opened the way to what should develop into a very interesting inquiry.

Those who have observed Mr. Roosevelt's management of public affairs with care will be confident that he cannot be maneuvered into an untenable position, and for the reasons stated at the beginning of this article:

He is too honest. And he is too smart.

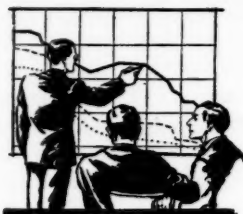
The President's extraordinary hold upon the public rests in great part on his willingness to experiment. This is in harmony with the American temperament. "No one can bat 1,000 all the time," he has said cheerily. In his experimenting he is moved by two factors. One is his sincere desire to correct the admitted evils of the past. Most of us can see most of them now. He saw most of them a long time ago. He has always tried to get a better break for the underdog. The second factor is his genius in politics. One must go as far back as the other Roosevelt to find an occupant in the White House of similar political quality. In not one of his acts has he incurred the opposition of a solid and identifiable body of voters. The nearest Mr. Roosevelt came to such a thing, perhaps, was when he defied the American Legion over the bonus. It is also true that President Harding and President Coolidge and President Hoover had likewise defied the Legion and that not one of them suffered in consequence.

No other world ruler is in the position of absolute personal dominance which Mr. Roosevelt occupies today. Outright dictators such as Hitler and Mussolini are excepted. Perhaps the Emperor of Japan has more power theoretically, but in fact his elder statesmen tell him where to sign. Mr. Roosevelt has his elder statesmen eating out of his hand, with the exception of Carter Glass, who is too long in the tooth, and George W. Norris, who recently found Mr. Roosevelt's professions inconsistent with Postmaster Jim Farley's horrid acts. Congress gave Mr. Roosevelt statutory authority to do almost anything he wanted to do.

In the mid-term election the popular vote confirmed this delegation of power. Another man in Mr. Roosevelt's position might see himself as dictator. Mr. Roosevelt, as has been said before, is too almighty smart.

Not by word or action has he suggested that the unprecedented victory of November has gone to his head. On the contrary he has given evidence that he is thinking out his course more carefully than before. His success in the future will depend precisely on how closely he assays the political and economic sentiment of the people. His first two years have been triumphant. The second two years may be filled with pitfalls. Americans may and sometimes do change their minds over night. Any political almanac is filled with proofs.

MR. Roosevelt knows quite well that he is sitting pretty just as long as the people like the way he sits. If they get tired of it they will pull out the chair. In the re-



### TVA Claims Should Be Verified

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cent election 46 out of each 100 voters did not like the New Deal and 54 out of each 100 did like it. That is not a catastrophic margin. Nor was the vote governed by partisan considerations so far as the deciding fraction is concerned. A man and an idea won. Through the campaign the President spoke only of the New Deal and almost never—if ever—of the Democracy.

**S**UPPOSE we look at the things he has tried to do and has done and the motives back of them, for on that record of effort and accomplishment his victory of November, 1934, was accomplished. It has yet to be shown to me that he has ever put through an act designed in whole or in part to permit the community improperly to invade the legitimate interests of the individual. It is true that he has had around him some very vocal gentlemen who would burn the house down

to get rid of a bedbug. He has given some of them wide liberty of action and they have bayed their theories under every moon. They have been of demonstrable political value to him in herding the wild-eyed and the malcontents to the polls. But the conservatives will note that not one of the President's experiments is directed *against* a class. Each has been framed in the effort to *help* a class.

The NRA has been more or less of a wash-out. But some of the things done by it have been worth while and will be retained. The business men were calling for something of the sort before the act was framed. The invaded pig owners did not protest the acts of the AAA at the polls. Moffett's housing program was designed as an aid to business. Ickes seems to be turning his ankle over that slum clearance plan, but the intentions were holy enough. No one has complained of the plan to save land from erosion or

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the scheme to stop wasteful tree cutting.

JOE Kennedy's Securities and Exchange Commission may protect an investor here and there from swindlers. When the dollar was devalued we were all in the same boat. Small-town factories were closed by the NRA codes, but the closing was no part of the original intention. If the small-town factory owners had suspected they were being ear-marked for injury a formidable volume of hostile votes would have been assembled. No analysis of the results of the November election has isolated such a body.

But if as a result of skulduggery being practised in the Tennessee valley the hundreds of thousands of owners of utility securities come to feel that they are being deliberately set apart for unjustified punishment, there will without doubt be a reaction at the polls. But if it be demonstrated that the Federal government through an agency can make and distribute electricity more cheaply and more efficiently than can the private utility companies, then in Heaven's name let the Federal government go to it.

This is not a personal surrender to the theory of government ownership. Innumerable arguments can be brought against it. It is merely an admission that if a Federal agency can do what Morgan, Morgan, and Lilienthal of the TVA say they are doing, then the handwriting is on the wall. Public ownership cannot be headed off, no matter whether public ownership is wise or foolish in the end. But if the basis of the claims made by Morgan, Morgan, and Lilien-

thal cannot be substantiated then an enormous—an incredible—injury to the security owners of this country is threatened on premises that are false.

IT seems to me that every one concerned in this controversy must demand that the truth of Mr. Willkie's charges be either demonstrated or refuted. No long, windy, partisan inquiry by Congress is needed. A bookkeeper can do the work in an afternoon.

If the TVA is able to disprove Mr. Willkie's charges, and prove that they are able to make and distribute current at a cost that privately owned companies cannot meet, the situation takes on definite outlines.

No "yardstick" will have been made, of course. The "yardstick" talk—well, the yardstick talk needs a little illumination. The cost of current production in the Tennessee valley will not be what it will be on the St. Lawrence if the seaway plan goes through or in Oregon if the Columbia Basin project is successful. Conditions are not and cannot be identical. The stages of water will not be the same on the Colorado as on the Tennessee. Climatic influences must be considered. A score of reasons why the yardstick will be made of rubber might be cited, but none of them is of importance. The fact remains that if the Tennessee Valley Authority can prove, on an absolutely truthful and uncolored presentation of facts, that it is able to undersell privately owned utilities under identical conditions then national ownership in one form or another is on the way.

THE proof—or the disproof—should be placed before Mr.



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Roosevelt. Not only has he more statutory authority than any previous President, but he is so trusted by the people that his decision would in effect be final. So tremendous are the issues involved, affecting as they do the interests of hundreds of thousands of saving men and women, that it will be conceded by all fair-minded men that no one on either side of the controversy will seek to deceive Mr. Roosevelt. Whatever contradictions may be developed will be the result of honest differences of opinion.

Back of the immediate question of costs is the problem offered by the huge new constructions of the recent past. That the principle of national ownership and control of water power has been accepted by the nation is no longer a matter of controversy. The millions that have been spent, are being spent, and will be spent on such enterprises as Muscle Shoals, Boulder, Bonneville, Alcova, and the numerous others are evidence of that. If these huge new hydraulic plants were to be operated, when completed, to the limit of their potential capacity it is probable that ten times as much current would be produced as could ever be utilized in the areas under them if a process of normal development ensued.

It seems probable that when they are completed the Federal government will adopt one of three courses:

It will either permit the plants to lie dormant, in whole or in part, as a reserve against emergency or war needs;

It will endeavor to transplant industries to the areas under the dams, in order to use the surplusage of power, or;

It will coördinate the publicly owned with the privately owned facilities.

If the third course were adopted the rights of utility security owners could be preserved. Such a plan might be worked out with the maximum of simplicity. If the privately owned companies were permitted to buy power at a cost permitting a fair and reasonable profit on distribution they could afford to keep their steam plants in standby condition. Other problems would arise, of course.

John L. Lewis, the dynamic president of the United Mine Workers, has already protested that the utility companies are the best customers of the coal operators, and if this business is to be lost to them a dislocating shock will be given the industry and finance of the country.

The soundest railroads are the coal

“ . . . if as a result of skulduggery being practised in the Tennessee valley the hundreds of thousands of owners of utility securities come to feel that they are being deliberately set apart for unjustified punishment, there will without doubt be a reaction at the polls. But if it be demonstrated that the Federal government through an agency can make and distribute electricity more cheaply and more efficiently than can the private utility companies, then in Heaven's name let the Federal government go to it.”



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roads. If they lose their coal-carrying business they may lose their solvency. Appalachian Coals, Inc., has stated that of the \$105,000,000 received by operators in the southern bituminous district at least \$68,000,000 was paid for labor, \$34,000,000 for mine and commissary supplies, and more than \$3,000,000 for taxes.

**W**HATEVER part of the coal business is displaced by hydraulic projects will cost labor, business, and the Federal, state, and local treasuries proportionate losses. Each ton of coal mined represents approximately one day's labor in the whole field of private employment. No advocate of public ownership has yet suggested a means by which the men displaced by hydraulic projects shall find work.

Putting such considerations aside it is still possible to argue that public and private interests might be profitably interlocked at the power pools. This cannot be hoped for, however, if a national program is entrusted for development to men fanatically attached to the doctrine of public ownership. Such a program might be honest in every line and implication and yet be administered in a fashion ruinous to the utility investors of today.

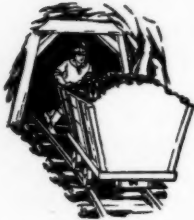
A careful reading of the various claims made by the TVA indicates that in the heat of their enthusiasm they have failed somewhat in candor. If there is a lag between the actual cost to the nation of power production in the Tennessee valley and the cost as set forth by the Authority, then that lag must be taken up by the general taxpayer. I am unable at the moment to put my hand on any admission of

that sort made by either of the Morgans or by Mr. Lilienthal. A liberal slice is taken off the capital charge for the improvement of the Tennessee river and debited against improvement of navigation.

**I**F navigation is improved every ton of freight must be taken from the railroads, which are living from hand to mouth even now. It has been amply demonstrated by the books of the Inland Waterways Company, the government-owned organization which operates boats on the Mississippi river, that in the heart of the country, with a huge potential freight business to draw upon, government-owned river boating has been a costly failure. Yet the efficiency with which the Inland Waterways fleet is managed has been consistently praised.

Dr. Arthur E. Morgan has endeavored to meet the complaint of the coal mine operators who see their business threatened with injury by suggesting that an effort be made to find new uses for coal. The TVA has, he says, set aside \$100,000 for experimenting along this line. His rebuttal does not seem convincing when one learns that the coal operators have been trying to find new uses for coal for years and without success. The U. S. Bureau of Mines spends \$1,000,000 annually in this quest. It has a million dollar laboratory at Pittsburgh, where the Carnegie Institute of Technology is also spending \$100,000 a year in trying to find some new way to use coal and revive an industry of immense importance to the nation. Twenty states are doing more or less work along this line, and in the foreign coal-

## Let's Have the Facts



**"I**f it is possible for the government to produce current at a cost the private utilities cannot meet—it being understood that no part of the government's cost is to be charged against the taxpayer—then the government will get into the business of producing current sooner or later, no matter at what injury to the coal miners. The sooner the facts—the FACTS—be revealed the better for all concerned."

producing countries inquiry has been active for years.

**Y**ET all this is, in fact, beside the point. Progress is simply not stoppable. If it is possible for the government to produce current at a cost the private utilities cannot meet—it being understood that no part of the government's cost is to be charged against the taxpayer—then the government will get into the business of producing current sooner or later, no matter at what injury to the coal miners. The sooner the facts—the FACTS—be revealed the better for all concerned. The hoped-for recovery in business is held back by the refusal of private capital to risk loss in a situation filled with uncertainties. If the privately owned utilities were relieved of uncertainty, millions of dollars would go at once into betterments. They cannot be relieved until the truth is known.

Perhaps it is because I am on the sidelines that the situation seems so simple to me in its essentials. No utility ever paid me a nickel. For years I have owned fifty shares of stock in a utility, but that is hardly

enough to sway my judgment materially. It is apparent that great power pools owned and controlled and perhaps operated by the government are at least a strong probability for the future—Boulder dam, Bonneville, Muscle Shoals, Alcova, Grand Coulee, Fort Peck, Loup, and Platte, and others.

**I**t should be possible to find an honest yardstick on which some such statement as this might be written:

Cost of producing power .....	\$1,000,000
Charged against the general taxpayer .....	500,000

Amount to be recovered at powerhouse from distributors	\$500,000
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Then all hands would know in the time-hallowed phrase just where they are at. Even the general taxpayer would know. The government-produced power could be distributed on the privately owned systems which are now in operation under proper agreements covering price to the consumer and profit to the stockholder. The loss to today's investor could at least be reduced to the minimum. No one knows how many such investors there are today. The conservative estimate

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is that there are 3,000,000 owners of utility stocks and bonds, although there are assuredly many duplications of ownership which cannot be traced. It is hardly possible to overestimate the importance of the industry to the United States.

THE investment in the electric light and power business alone approximates \$13,000,000,000. It may be more. In August, 1934, it was estimated that 251,600 persons are employed by it. A 10-year average shows the new construction costs as \$750,000,000 and maintenance expenditures \$100,000,000. The consumption of energy has been increasing annually and the cost to the consumer has been decreasing. In the present year the industry will contribute approximately \$270,000,000 in taxes to the various public treasuries,

which amounts to \$15 out of every \$100 collected by the privately owned companies for services rendered. If this immense industry cannot justify its continued independent existence on the basis of service rendered and fair costs then—whether the investors like it or not—some form of government ownership or operation or direct control is on the way. But if it can justify itself then by no process of reasoning should it be subjected to unwarranted attacks by theorists who support their theories by unfair juggling with facts and figures.

I have said that it is of prime importance to the investors in utility securities that the facts should be known. It should be added that as an era of high taxes seems to be rapidly approaching it is of hardly less importance to the taxpayer that the facts should be known.



### "French" Telephone Originated in U. S.

THE cradle-type telephone, generally believed to have originated in France, was invented by Robert G. Brown, chief engineer of the Gold and Stock Telegraph Company of New York city, two years after Alexander Graham Bell first transmitted speech over wires in 1876. Brown received a patent for it here in 1880.

In that year he went to Paris to establish a telephone exchange and carried his hand set with him. There it was used by both telephone subscribers and operators.

The similar desk set used extensively in this country until recently was invented in 1884. For many years telephone engineers experimented to combine the advantages of Brown's set with those of the desk set. This task was completed in 1926.

Since then hand sets gradually have been replacing the old type sets throughout the country and it is said telephone equipment manufacturers are now turning out the "cradle" or "French," phones almost exclusively.

—The News & Observer.

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# Remarkable Remarks

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*"There never was in the world two opinions alike."*

—MONTAIGNE

PRESIDENT ROOSEVELT.

"Our people have both feet on the ground."

HAROLD L. ICKES  
*Secretary of the Interior.*

"I believe in opposition frankly and honestly expressed."

*United Mine Workers Journal.*

"Let the generations to come deal with hydro—they may need it then: we do not."

DR. KARL T. COMPTON  
*President, Massachusetts Institute of Technology.*

"Science not only did not cause the depression but it is our best hope of getting out of it."

THOMAS N. MCCARTER  
*President, Edison Electric Institute.*

"I propose a vigorous and an effective defense of this (public utility) industry from now on."

JOSEPH B. EASTMAN  
*Federal Coordinator of Transportation.*

"Free-for-all competition in transportation never has worked, and it will not work in the future."

*American Lumberman.*

"If the President wants more dams he might hang around and listen when the tax bills come in."

E. S. DRAPER  
*Director of Land Planning and Housing, TVA.*

"The real purpose of the Tennessee Valley Authority is to provide a practical testing ground for planning in its larger sense."

THOMAS B. K. RINGE  
*Writer.*

"The vital purpose of the Constitution of the United States is to protect the people from government—principally the Federal government."

OGDEN L. MILLS  
*Former Secretary of the Treasury.*

"There's something very definitely wrong. While Washington won't admit it, thoughtful men and women everywhere are becoming increasingly anxious."

DR. HARCOURT A. MORGAN  
*Director, Tennessee Valley Authority.*

"The development of this (TVA) electric power is to be a sort of yardstick with which to determine whether the rates charged in other parts of the country are fair and as low as they reasonably can be."



## Fellowship between Federal and State Commissions

Need of coördination of national and local agencies in order to secure most effective regulation of public utilities.

By JOHN L. COLLINS

ATTORNEY, CONNECTICUT PUBLIC UTILITIES COMMISSION

THE passage of the Federal Communications Act and the prospect of Federal legislation relating to interstate transmission of electricity, interstate operation of motor busses and motor trucks, and holding companies, raise the problem of how the state agencies shall coördinate their functions with the Federal agencies in effecting efficient regulation of the utility industry and in refuting the challenge so generally raised today that regulation has failed.

The post-war boom period saw a wide expansion of public utility service generally, due to development and improvement in the arts of electricity, gas, telephony, and motor vehicles, and in keeping pace with a rapid economic development of our industries. This expansion of public utility service manifested itself to a large extent in the physical expansion of facilities utilized in interstate commerce and to a less extent in foreign commerce, and in an extension of the corporation as

a method of controlling and centralizing the operation of units of the utility industry.

During this post-war boom period, state control of the public utility industry was extended through legislation and intensified through regulation, and commissions generally were vigilant in protecting the public interest in an era of rapidly rising prices.

Except in the field of railroads, Federal legislation or regulation during this period did not keep pace with state legislation and regulation, despite the extension of public utility service in interstate commerce, with the result that the gap widened between the regulated part of public utility service and the unregulated part.

THIS gap sometimes handicapped state commissions in efficient regulation of intrastate commerce, on account of the interrelated nature of the company's interstate and intrastate

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business and rates,<sup>1</sup> and the necessity of the state confining itself to the intrastate part of the business when consideration of the company's entire field of operations was necessary to handle the rate problem intelligently.

THE United States Supreme Court in recent years, taking cognizance that the Federal field was not occupied, reduced this gap to some extent by holding that state regulation of the interstate commerce of the utility company was an incident to state regulation of intrastate commerce where retail rates for gas distributed within the state were being regulated by the state although the company distributing the gas purchased it in interstate commerce from another corporation outside the state.<sup>2</sup>

The Supreme Court has also held that a state, in a similar situation, had power to inquire into the reasonableness of the wholesale rates for gas paid by the local distributing company to the seller, its corporate affiliate, which supplied the gas in interstate commerce.<sup>3</sup>

And in the field of motor trucking the same court has held that the state could prescribe uniform regulations adapted to public safety on the highways and conservation thereof applicable alike to vehicles moving in interstate and intrastate commerce.<sup>4</sup>

<sup>1</sup> See, for example, *Rhode Island Pub. Utilities Commission v. Attleboro Steam & Electric Co.* 273 U. S. 83, P.U.R.1927B, 348.

<sup>2</sup> *East Ohio Gas Co. v. Ohio Tax Commission* (1931) 283 U. S. 465, 75 L. ed. 1171.

<sup>3</sup> *Western Distributing Co. v. Kansas Pub. Service Commission*, 285 U. S. 119, P.U.R. 1932B, 236; *Columbus Gas & Fuel Co. v. Ohio Pub. Utilities Commission* (1934) 292 U. S. 398, 4 P.U.R.(N.S.) 152.

<sup>4</sup> *Morris v. DUBY* (1927) 274 U. S. 135, 143, 71 L. ed. 966.

THE power of the state, however, to regulate wholesale rates for electricity transmitted in interstate commerce between two unaffiliated corporations was, of course, denied, even where it appeared that state regulation was necessary to avoid discrimination against local customers of the selling company.<sup>5</sup>

Now that the Federal government is closing the gap by far-reaching legislation and energetic administration, amid the hue and cry that regulation by state agencies has failed, the states are confronted with the problem of how to coördinate their functions with those of the Federal agencies in accomplishing complete and efficient regulation and at the same time preserve to the states their own jurisdiction. There must be coördination of Federal and state agencies within the framework of the Constitution, not only in the interest of efficient regulation, but because failure will limit further the powers of the state in its own field beyond that which has already taken place under judicial construction in welding our country into a nation by establishing the supremacy of the Federal government.

IN the fields of electricity, telephony, gas, water, and probably motor trucking, unlike in the railroad industry, intrastate commerce predominates, so that the states do not find themselves in a situation of virtually having to surrender their rate-making powers to the Federal government, and for that reason past experience in the railroad field does not furnish an adequate guide in charting coördina-

<sup>5</sup> *Rhode Island Pub. Utilities Commission v. Attleboro Steam & Electric Co.* *supra*.



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tion in the other fields of utility services.

**A**PPORTIONING to the Federal agencies and to the states their respective spheres, by allocation of the common property of the utility company, and each agency confining itself to its own sphere will not suffice, because, first, the line of demarcation must generally be artificially drawn, and, second, separate regulation by the appropriate agency of its own sphere may create inequalities between interstate and intrastate rates for similar service. Conflict between the two agencies is thereby made more likely and uniformity is lost. Thus, in the telephone industry, while the intrastate business preponderates, nearly all of the property is at times used in interstate commerce. Taking the toll switchboard as the line of division between the two fields is not absolute, since those facilities and some of the connecting long-distance lines are used in intrastate toll calls; likewise, the distribution lines within the city and the station equipment are to some extent used in interstate commerce. Similarly, in the electric field, while the generating equipment and transmission lines are used largely in intrastate commerce, they may in a given case be used largely at times in interstate commerce, the degree of use

varying from time to time dependent upon the particular time of the year, since interchange of power between companies over state lines occurs at different times in the year.

**I**N the field of motor truck regulation, obviously the safety requirements of the state and Federal authorities should not differ; whether the carrier can lawfully refuse to accept one class of low-profit goods in preference to another class of high-profit goods, both of which move in interstate as well as intrastate commerce, involves discrimination, which should require no difference in treatment; and likewise the method of determining rates should not vary with the two agencies since we may run counter to the rule that the carrier shall not transport goods a short distance, perhaps in intrastate commerce, at a higher cost than for carrying the same class of goods a longer distance, perhaps in interstate commerce.

These examples demonstrate that there must be an earnest effort on the part of the Federal and state agencies to coöperate in order to completely cover the separate though merging fields of each agency and accomplish uniformity of rule wherever possible.

**T**HE determination of percentage rates of depreciation on telephone property is a case in point in develop-



**Q** "THERE must be coördination of Federal and state agencies within the framework of the Constitution, not only in the interest of efficient regulation, but because failure will limit further the powers of the state in its own field beyond that which has already taken place under judicial construction in welding our country into a nation by establishing the supremacy of the Federal government."

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ing coördination. Both Federal and state agencies are in accord that the straight-line method of depreciation should be followed in determining the percentage rates. The basis of that method is that the useful lives of the depreciable property can be reasonably and fairly determined to both patrons and company from the past experience of the company. Neither the state nor Federal agencies wish to surrender to the other the right of determining those percentage rates to become applicable alike to interstate and intrastate property. Yet any other conclusion than uniform percentage rates of depreciation applicable to the industry's entire property would be a demonstration that the useful lives of the depreciable property cannot be determined and would be absurd.

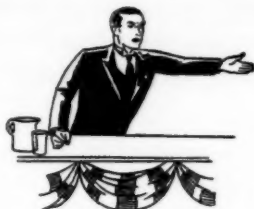
Coördination will promote uniformity which is obviously desirable from the standpoint of the public utility industry and will overcome a defect in our constitutional form of government. The unique feature of our Federal Constitution in reserving to the several states all powers not specifically delegated to the Federal government, while preserving local government and a greater degree of personal liberty than in centralized nationalism, has created at the same time the disadvantage to industry of operating under the often varying laws of forty-eight states and the Federal government. Industry generally has rightly complained of this difficulty as interstate commerce has developed.

SOME progress has been made in recent years by passage of uniform legislation in many states relating to

conduct of business. As the interstate business of utility companies grows, this same difficulty will increase. It still appears too early for the states to consider uniform public utility laws. Some degree of uniformity, however, can be brought about in the public utility field by coördination of state and Federal agencies, provided there is a recognition by each agency of the limitations of its own sphere and a willingness to coöperate to that end by each making concessions wherever necessary and wherever reasonable minds can meet.

SINCE coördination is largely embryonic, the process must necessarily be empirical, but it would seem from the foregoing discussion that these general principles should apply: first, where the rates or service under investigation involve both interstate and intrastate commerce, joint hearings should be conducted by both the Federal and state agencies in order to avoid conclusions reached by independent hearings of one agency impinging upon the field of the other agency and in order to bring about a uniformity of result as far as possible; second, where the interstate commerce of the subject matter under investigation preponderates, the Federal viewpoint, in the event of conflict of opinion, should prevail and become the rule applicable to intrastate commerce wherever possible for the reasons stated; and, conversely, where the intrastate commerce preponderates, the state viewpoint should prevail and become the rule applicable to interstate commerce.

WHERE neither interstate nor intrastate commerce in the subject



### Regulation Must Not Destroy Initiative

**"E**FFICIENT regulation through coördination must confine itself . . . within its own proper and well-established legal limits. It must not result in destroying or injuring private initiative and capital under the claim of exigency; it must not result in the substitution of our judgment for that of the utility in the well-defined field of management, pursuing expediency rather than sagacity; nor must it become a means of bringing about public ownership under the guise of regulation."

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matter preponderates, there must be concessions by both agencies in their viewpoints in the interest of uniformity wherever reasonable minds can meet. There must also be the fullest exchange of data between the two agencies and a willingness of one to act on behalf of the other in the ascertainment of facts of mutual interest.

The immediate danger that lies ahead of mutual coöperation is the clash of extreme views at a critical period in the history of public utility regulation. The fact that it is only now that the Federal government is closing the gap in regulation and is making up for lost time by acting with all speed and force has produced the reasonable fear that honest and competent industry will be punished for the sins and errors of the dishonest and reckless.

If ever there were a time in the his-

tory of utility regulation when statesmanship of Federal and state administrators was necessary, it is now. There can be no question that dishonesty, extortion, and reckless investment, wherever found to exist, should leave the consequences of those acts upon the company's investors. The abuses created through the medium of the holding company and the maintenance of its top-heavy capital structure, in many instances, by unreasonable levies upon operating companies or by causing operating companies to charge excessive rates, must be eliminated.

**N**OR can there be any question that the lowest rates consistent with adequate service should be insisted upon, despite any stubborn opposition. Competency, honesty, and courage in protecting the public interest and in maintaining the supremacy of gov-

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ernmental authority permit of no other attitude. The several states should whole-heartedly coöperate with the Federal agencies to these and other similar ends.

Efficient regulation through coördination must confine itself, however, within its own proper and well-established legal limits. It must not result in destroying or injuring private initiative and capital under the claim of exigency; it must not result in the substitution of our judgment for that of the utility in the well-defined field of management, pursuing expediency rather than sagacity; nor must it become a means of bringing about public ownership under the guise of regulation.

We may be pardoned for our national pride in the quality, technical development, and extent of our public utility service as a whole in contrast with public utility service in Western Europe and elsewhere, developed under essentially governmental ownership and operation.

**T**O what do we owe the advanced state of our public utility service? We owe it to the inventive genius and industry of our race in laboratory and shop; to its skill in technical development and business organization under the joy of private initiative and the stimulus of monetary reward, honor, and pride in achievement. The greatness of the American race will rise above our puny efforts to kill its

genius, but we can hurt the material progress of our country in injuring those incentives.

In justifying the preservation of private initiative, can we not rightly answer the temporizers that the transition in governmental policy from one of *laissez faire* until fairly recent years to statutory restrictions and close governmental supervision of all industry in 1934 is not likely to give a full rein to money making; that the creation of much of our wealth from extraction of our rich natural resources in the short space of less than one hundred years set a tempo that is not likely to continue in the future, and that the sobering effect of the depression has diminished the abuse of private initiative by chastening the outlook of most of us on life?

**T**HEREFORE, as coördination develops and policies are formulated, let the state and Federal agencies approach their problems with flexible minds, let them retain the calmness in solving their problems that is an attribute of experience in regulation; and let them show their confidence in the even greater future of our country by striving to see beyond today's hysteria and propaganda of half truths into the resurgence tomorrow of a vibrant and creative America under the stimulus of private initiative and capital with the safeguard of intelligent and reasonable regulation by governmental authority.

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**Q** "We do not claim to have inherited the genius of the founders of the republic; but we have inherited the institutions which they gave us; and we may learn rich lessons from their experience."

—DONALD R. RICHBERG,  
General Counsel, National  
Recovery Administration.



## What the Governors Think about Public Utility Questions

Excerpts from the messages of the chief executives of various states, recommending the passage of laws, by the legislatures, affecting the public service industry and the public.



### ALABAMA: Governor Graves

**"I** ASK your early and prompt consideration of legislation that will enable Alabama to cooperate fully with the aims and purposes of the Tennessee Valley Authority in the development of its program. To this end I am asking the passage of a bill relieving the Alabama Public Service Commission of any jurisdiction over the Tennessee Valley Authority or other Federal agency or

instrumentality, working for development in Alabama, and permitting other utilities or private corporations or municipalities to sell or dispose of their franchises, stocks, and property to such Federal agencies, a majority of whose stock is owned by the United States government, without the approval of the Alabama Public Service Commission or other like agencies."



### CALIFORNIA: Governor Merriam

**"I** NOW come to a matter which must be treated with absolute candor and impartiality if any ultimate public benefit is to be derived from a discussion of all of its aspects and possibilities.

"The appointment of a commission to investigate the state's water and power program is recommended, to be composed of citizens of California appointed by the governor, and to be authorized to investigate the feasibility and desirability, from the standpoint of public interest of the acquisition by the state of California of the electric power generating and distributing facilities now under both private and public ownership within the state.

"We have this situation before us in California: Developing side by side, serving a similar purpose and utilizing the same resources for the production, distribution, and sale of an identical product, there are two great electrical power groups, one actually owned by hundreds of thousands of investors and operated under private management, and the other owned by the people and managed by public authority.

"No wide difference exists in the general rates charged by these respective, and to an increasing extent competitive, groups. The privately owned utilities, subject to government regulation, are required to pay various kinds of taxes, the publicly owned utilities have not been subject to taxation. There are many other conditions involved in this situation which embrace either actual or potential contradictions, inequalities, and opportunities for conflict.

**"T**HIS problem should not be approached from the standpoint of the partisans either of public or private ownership, but solely from that of the economic well-being of the state as a whole.

"Entrance of the Federal government into gigantic power development projects, and the vast resources thus made available from the public treasury for virtually unlimited extension of publicly owned undertakings of this nature, have greatly added to the uncertain status of privately owned power utilities.

"The commission which I ask you to au-

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thorize and which should have a membership of not less than nine nor to exceed fifteen persons should be empowered to discuss the possible purchase and to obtain independent estimates of the sale value of such privately and publicly owned generating and distributing systems which the state might determine to acquire.

"It must be kept in mind that there are more than 250,000 men and women in California whose savings are invested in the privately owned electrical industry, and that this very large group of our population is entitled to fair treatment in any negotiations looking to the acquisition, by purchase of the properties whose securities are held by

the investing public.

"Whether electric power is to be supplied under private or under public ownership, it is manifest that it should be supplied by a widespread and interconnected system having a diversity of load, serving agriculture and industry as well as residences, so that all classes of consumers may continue to enjoy low rates and the continuity of service that only such a system can afford.

"In its broader aspects, this whole question necessarily involves the vital problem of the development and conservation of our water resources in the state, because power development cannot be dissociated from that greatest of all natural resources."



### COLORADO: Governor Johnson

"**A**t the last state assembly of the party to which a majority of your members belong, resolutions were adopted concerning the regulation of public utilities in Colorado, and I commend that portion of the party platform to you for consideration and action. No new legislation concerning electric, gas, and telephone utilities has been passed in Colorado for approximately eighteen years, although practically all other states have adapted their statutory set-up to changing conditions.

"Two years ago I suggested to the legisla-

ture the passage of acts giving the public utilities commission jurisdiction over the issuance of securities by public utility corporations and other financial arrangements made between holding and operating companies. No legislation along these lines was enacted, and I now renew my suggestion and urge that action be taken at this session.

"I also urge that the cost of financing utility regulation be borne by the companies themselves, as is now done in 39 states, and that the services of the commission be made available to home-rule cities if desired."



### CONNECTICUT: Governor Cross

"**I**t may be surprising to you that there has been no revision of our statutes regulating public utilities since 1911, when the present commission was created. Since that time there have arisen many regulatory problems which have been inadequately met by a number of amendments, sometimes inconsistent with one another. Twice I have recommended to the general assembly that our system of control be modernized in the light of experience, but no favorable action

has yet been taken. It has become clear to me that the public utilities statutes should be immediately revised so as to give the commission larger powers over rates, over the issuance of securities, and over the merging of public utility corporations. With these needs in view, I intend to submit for your consideration a bill which will also include a revision of certain other parts of the existing statutes. I hope that this bill will appeal to you as a proper basis for favorable action."



### ILLINOIS: Governor Horner

"**T**he general assembly has in previous sessions enacted legislation to enable and authorize municipal corporations of the state to take advantage of the public works program of the Federal government. It has become apparent that additional legislation is necessary to speed up the legal machinery affecting financing by municipalities. The element of time is now important since I am advised that the Federal government is con-

templating further extension of financial aid and credit as a means to stimulate recovery and will necessarily want to act with rapidity in order to secure the desired results. I suggest, however, that any legislation deemed desirable by the general assembly to simplify municipal financing should be limited to the present emergency or to financing in conjunction with the Federal government and its agencies. In particular, I recommend that



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legislation be enacted, except as our present laws now permit, to accomplish the following:

"1. Simplification of the procedure for the authorization and financing by municipalities of public works projects, including the elimination of the requirement for a referendum and in lieu thereof substituting a permissive referendum on bond issues, provided the sale or pledge of such shall be made directly to the Federal government or its agencies.

"2. Conferring of additional powers upon municipalities to undertake public works projects and finance the same, and the delegation of a broader authority to municipalities to make such contracts with the Federal government as are deemed in the best interests of the municipality.

"3. Creation of municipal improvement authorities without power to tax, but with power to issue bonds payable solely from the income of revenue-producing improvements, such as

water, sewer, and electric light and power systems.

"4. Empowering any Federal agency or municipal or private corporation constructing a public works project with funds contributed by the Public Works Administration to condemn any necessary lands in connection with such project.

"5. Providing for the creation of nonprofit public benefit corporations or agencies for the electrification of rural communities with the assistance of the Federal government.

"6. Validation of bonds and other obligations heretofore issued by municipalities for public works projects and sold to the Federal government.

"We ought to enable the state and our local municipalities to embrace the opportunity which may be offered by the Federal government as soon as the Congress authorizes a further additional public works program."



### INDIANA: Governor McNutt

"THE state planning board, after months of intensive investigation and research, has completed a comprehensive report on a state plan for Indiana. To insure the continuation of this most important work, I recommend the creation of a permanent state planning board to make studies of the resources of the state, to formulate plans for the intelligent and systematic utilization and development of these resources and to cooperate with the national resources board and other Federal and state agencies.

"I recommend the passage of the following legislation:

"An act simplifying the procedure for the authorization and financing by municipalities of public works projects and permitting the sale of bonds privately to the Federal government.

"An act, with proper safeguards, conferring

additional powers upon municipalities to undertake public works projects and issue bonds to finance the same and delegating broader authority to municipal officials to make such contracts with the Federal government as are deemed in the best interests of the municipality.

"An act creating municipal improvement authorities without power to tax, but with power to issue bonds payable solely from the income of revenue-producing improvements.

"An act providing for the creation of nonprofit public benefit corporations or agencies to provide for the electrification of rural communities with the assistance of the Federal government.

"An act validating bonds and other obligations heretofore issued by municipalities for public works projects and sold to the Federal government."



### MAINE: Governor Brann

"I AGAIN take the occasion to recommend to the legislature the submission to the people of an amendment to the Constitution granting to cities, towns, and plantations an opportunity to borrow an amount equal to 7½ per cent of their respective assessed valu-

ation. This will permit cities and towns to take advantage of any PWA loans they desire to make and also permit them to readjust their financial structure in line with the peculiar times through which we are passing."



### MARYLAND: Governor Nice

"DESPITE reduction in the rate on real and personal property, the burden has not decreased; yet the yield of the gross

receipts tax on utility corporations has declined, notwithstanding an enormous increase in gross receipts. The increase in the gross

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receipts of the public utilities of our state and the present financial condition of the public service companies, with respect to dividends and corporate surpluses, are matters of pride to the companies, and of satisfaction to the state.

"This class is much better conditioned to make a sacrifice and, so far as the state gross receipts tax is concerned, has been leniently treated for the past decade. Additional revenue could be obtained from this source, so as to provide at least \$2,400,000 instead of \$1,184,000, the yield in 1933. I call your attention to the fact that this tax will fall on such corporations, without being shifted to the consumer, unless the public service commission grants an increase in rates, which from the

published reports of the companies would seem not to be justified.

"To forestall objection to and criticism of this proposal, I call to your attention the ineffectual attempts to reach, by the general property tax, the enormous difference between the large valuations asserted by the utilities (and, because of Federal decisions, made the basis of earning value), and the meager sum returned by the utilities as their property subject to assessment and taxation. This makes imperative the imposition of a larger gross receipts tax, so that this class of taxpayers may bear their fair share of the tax burden made necessary by present governmental requirements. From this source at least another \$1,000,000 may be obtained."



### MASSACHUSETTS: Governor Curley

"THERE is no justification for the present schedule of rates on electricity and gas, since it is predicated on the discarded theory of limited sales volume and large profits. The present-day theory is large sales volume and small profits, and a reduction in

the rates both of gas and electricity should be established at once by the public utilities commission. The adoption of a lower rate schedule would unquestionably result in increased consumption, increased revenue, and increased benefits to the public."



### MICHIGAN: Governor Fitzgerald

"A VERY considerable portion of the business of the state is now being administered by and through boards and commissions that have been organized and provided for at various times, as conditions seemed to require. . . . The purposes and operations of these commissions and boards are so interwoven that it would seem desirable, in so far as possible, to combine or coördinate their activities by consolidation. . . .

"I would recommend the creation of a commission, to be known and designated as

the 'Michigan Public Service Commission.' There should be transferred to this commission all of the power and authority under existing law, now vested in and exercised by the Michigan Public Utilities Commission, the Public Trust Commission, the State Bondholders' Committee, the licensing and regulation of real estate brokers under Act No. 306, P. A. 1919, above mentioned, and the licensing and regulation of finance companies now exercised by the state treasurer."



### MINNESOTA: Governor Olson

"IN its tremendous work program for the future, the Federal government contemplates not only rural electrification, but also contemplates the building up in the Mississippi valley of a gigantic system for the production of electricity. The benefits of such a plan to Minnesota can be tremendously increased if the state has the authority to own and operate a power system. This can be accomplished only by an amendment to the Constitution of this state, through a vote of the people. You alone have the power to permit them to vote upon such a constitutional amendment.

"Except to urge you to provide for the submission of such an amendment to a vote of

the people at the next general election I shall not encroach upon your exclusive prerogative. Permit me, however, to suggest that the people are sovereign—not the legislature—and that the people have a right to determine for themselves not only what form of government they desire, but also what means shall be used by government in contributing to their welfare. No one can challenge the statement that through the joint action of the Federal and state governments it would be possible to tremendously increase the electrification of homes and business establishments in Minnesota at rates considerably less than the rates now charged by the public utilities.

"In view of the opportunities presented to

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the people of this state for improving their standard of living and their factory development, I earnestly request you to carefully consider the propriety on your part of refusing to permit the people of Minnesota to vote upon this important question.

"In the same connection I recommend that

you submit to the people of Minnesota a constitutional amendment, in addition to the one hereinbefore proposed, under the terms of which the legislature of Minnesota will be empowered to engage the state in the general operation of public utilities, packing plants, and other key industries."



### MONTANA: Governor Cooney

"I AM in receipt of a letter from the President suggesting that certain legislation be enacted. . . . In the same communication I was advised that if such legislation was desired and the President were so notified he would request Administrator Ickes to have the necessary bills prepared. I recommend the adoption of these measures and have written the President requesting that Adminis-

trator Ickes prepare the measures appropriate for these purposes. . . . I ask you to give to the seaway project and seaway treaty that early, careful consideration demanded by its great importance to Montana, to the end that every means at your command may be exerted to insure ratification by the United States Senate in the early days of the present session."



### NEW JERSEY: Governor Hoffman

"I do not question the right of a municipality to establish its own utility enterprises, where such action may be warranted by excessive rates, but we must not lose sight of the fact that municipally owned properties are exempt from tax; if widespread municipal ownership should destroy our public utility enterprises, we will face the loss of millions of dollars from taxes now being used to support our government. . . .

"I believe that utility companies should be useful servants and not the masters in this sovereign state. Public utilities, like all other businesses, must adjust themselves to our changing economic, industrial, and social conditions. There is an increasing demand for a revision of utility rates in the user's interest. The facts ought to be known, and the board of public utility commissioners created to regulate utility practices in the interests of the people should be clothed with ample power. At the same time it must give convincing evidence that it represents the interests of the people.

"I PROPOSE the following extensions of authority:

"That the board be given power to prevent the disguising and concealing of profits by unnecessarily high costs of management, construction, and engineering by holding or interlocking companies.

"That the lending of money or property by a public utility to holding interests be prohibited, or strictly regulated, and made subject to approval by the board of public utility commissioners.

"That the board be given authority to prohibit the declaration of dividends, unless fully warranted by the financial condition, the earnings of the company, and the physical condition of plant and equipment.

"That public utilities operating in the state be required to keep depreciation funds and the securities in which said funds are invested within the state in order that the financial interests of consumers may be more adequately assured.

"That utilities operating within the state be required to keep therein customer, financial, operating, and property records of the business done and property owned in the state as a means of facilitating regulation.

"That the board be empowered to negotiate and agree upon temporary rates, pending determination after formal proceedings.

"That the board have authority in the discontinuance of surcharges and repayment of such surcharges when this procedure may be established as equitable.

"That the board be given authority to require sound insurance on auto busses operating on an interstate basis, and to disapprove operation consents and transfers unless satisfied with the financial responsibility of the insuring company.

"The present extended hearings on rate cases before the public utility commission are not operating in the best interests of the public. I intend to demand that they be brought to a speedy close and that equitable rates be fixed at the earliest possible moment."



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### NEW YORK: Governor Lehman

"It has been my constant policy to strengthen the regulation of utility companies, to perfect the public service law, and to increase the efficiency of its administration and enforcement. Last year at my recommendation the legislature adopted a program which should result in giving to the people of our state more adequate protection against unreasonable rates. This program of enacted legislation probably marks the greatest advance since the time the public service commission was established a quarter of a century ago.

"Last spring a legislative committee was established to investigate the lobbying activi-

ties of certain utility companies and the relations between such companies and public officials of the state and its political subdivisions.

"I am hopeful that the committee will pursue with vigor, thoroughness, and dispatch the tremendous and important tasks with which it has been intrusted. The consuming public is anxiously awaiting speedy action. I trust that the committee will be able to present its report and a definite program of curative legislation for adoption by your honorable bodies during this session of the legislature."



### NORTH CAROLINA: Governor Ehringhaus

"UNDER direction of the last general assembly a new set-up has also been effected in the utilities commission. The commission has been selected with a view to obtaining an unusually competent and experienced group which would be fair alike to utilities and the people. Their labors have

already brought rich rewards to the people in reduced rates, aggregating hundreds of thousands annually and near three millions in the last two years. The future will, I am confident, bring additional proof of their high consecration. The needs of this activity will be later presented."



### NORTH DAKOTA: Governor Moodie

"I HOPE this session of the state's legislature will again go on record in support of the Great Lakes-St. Lawrence waterway, and also for a resurvey of the Missouri river diversion project which I am convinced has been dismissed without the consideration it

merits from the Federal government at a time when it is most apparent, because of unemployment and general conditions, that large unit water conservation projects of practical utility are most necessary in the new national economy."



### OREGON: Governor Martin

"BONNEVILLE construction is but the beginning of what we have hoped and prayed might be. The project was located at tidewater with a purpose. That purpose was to start navigation of the Columbia river on a sound engineering basis. That purpose also represented the idea of getting great blocks of cheap energy developed as closely as was humanly possible to a large population and industrial center where there was a market and also to have the available energy which Federal funds make possible located on a navigable stream and on the most modern and effective land transportation lines.

"It is the gem of all the Federal projects now under construction because of its cheapness, its accessibility, and its proximity to an industrial market. It may be converted into a mighty instrumentality for our development, our happiness, and our success. Let me again appeal to you to recognize this opportunity and to place your strength and energy behind

the program that will make it serve this purpose.

"We must navigate the Columbia, the Snake, and the Willamette. Improvements for this work should be pressed with the utmost diligence. Our producers of the interior need this great facility. Such work is not aimed to destroy or impair any existing transportation line, but rather to bring into play natural advantages, natural assets which belong to our people and which they should be permitted to use for their own betterment.

"Let us also dedicate ourselves to the further improvement of these waterways as rapidly as this work may humanly be accomplished. We should aid the Federal government in selling the energy produced at Bonneville, until all available is on the market, and then we should step steadily and in a most determined spirit on up the Columbia and into the Snake, and up the Willamette and any other navigable streams."

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### PENNSYLVANIA: Governor Earle

**"T**HE utilities do not yet realize that the golden goose is in his death throes. I want to save the utility companies. I want to protect the thousands of investors in utility companies in Pennsylvania. These investors will suffer if public ownership competition comes. The movement for municipal light and power plants is growing throughout the country.

"I know we are supposed to have utility regulation in this state at present. But that is not the sort of regulation I'm talking about. This administration will introduce a public utility law so stringent that no public service commission can stultify it without full public knowledge.

"Relations between utility companies and their holding companies should be under the jurisdiction of the public service commission. Further, all expenditures of utility companies should be subject to public scrutiny and control.

"It has been the practice for many years to use a part of the surplus profits squeezed from the public, to fight the public. Candidates

have been bought with utility company campaign contributions, usually in secret. Lobbies have been maintained here at Harrisburg by these funds. So great has been the power of these extra-legal groups that not a bill passed, not a move could be made, without their consent. We propose to root out the lobby evil. First, to destroy the utilities lobby by cutting off its source of revenue. Second, by striking at all lobbies.

"I have another word of warning, not unconnected with the utilities, for it refers to their real masters—a little group of all-powerful bankers. These bankers are the backbone of the reactionary opposition to the New Deal.

"This administration will do its utmost to protect the investors of Pennsylvania. But it will take neither direction nor advice from this powerful banking clique which in the past has had so much to say about the operation of this state government. For the next four years, and I hope I speak loudly enough to be heard in Wall Street—it's 'Hands off Harrisburg.'"



### RHODE ISLAND: Governor Green

**"I** URGENTLY recommend coöperation with the Federal government with relation to its program for the extension of publicly owned power plants where privately owned plants do not furnish light, heat, and power at reasonable rates. To help ascertain the

reasonability of these and other public utility rates an investigation under the auspices of the general assembly may be desirable. I suggest that legislation be enacted giving the various municipalities the right to own and operate their own plants."



### SOUTH CAROLINA: Governor Johnson

**"T**HE work of the railroad commission should be carried forward diligently. The matter of power rates is one of vital concern to the people, as is the subject of rural electrification. The former rests squarely under the railroad commission since delay through Federal court procedure is no longer permissible. It is not sufficient that the railroad commission study power and electric light rates only as a means to reasonable rates consistent with a fair return upon the actual investments of these companies; but, the commission should make a thorough study of the cost of all manner of electrical appliances and establish their true retail value. Telephone rates, in response to a general senti-

ment and perhaps in a measure traceable to my campaign, were the first day of this month reduced slightly in South Carolina. They should be seriously studied, with a view of more pronounced reductions than those which have just gone into effect. Excessive rental charges on modern equipment and desk devices should be eliminated entirely and these companies required to furnish the modern equipment as a part of their regular service at no additional charge. The railroad commission should join with similar bodies of other states in the movement looking to the general reduction of long-distance telephone tolls."



### TENNESSEE: Governor McAlister

**"T**HE most momentous development in Tennessee during my term as governor has been the work undertaken by the Ten-

nessee Valley Authority for the purposes of which Congress has made available appropriations aggregating nearly \$100,000,000, the



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greater portion of which is to be spent in the states of Tennessee and Alabama. The tremendous benefit that will accrue to the people of our state from the work now being done by this Federal agency is familiar to you all, and I am anxious that all acts that may be found necessary or even useful to enable the state and its various towns, cities, and counties to take full advantage of the benefits that are thus being offered to us, be promptly enacted by this legislature.

"The President has recently especially requested of the governors of all the states the enactment of laws that will facilitate their participation in the public works program that is expected to be authorized by Congress, and especially to authorize the construction of those that are self-sustaining.

"Many towns, cities, and counties already have under way their own plans for receiving the benefit of the cheap electric current that is now being generated, or soon will be generated and distributed by the Tennessee Valley Authority. The local expenditures that are necessary to enable them to receive these benefits should be promptly authorized by any law that may be found to be necessary or desirable. The President has informed

me recently that copies of acts thought to be desirable by the Department of Interior will be furnished us on request, these to be used as models of acts to be passed by you for the general purposes now under discussion. I have requested that these laws be promptly furnished us, and bills based upon them and others of either a general or a special nature thought to be desirable or helpful should be promptly enacted by you.

"In the course of the development of the Tennessee Valley Authority, they have found it necessary to acquire the existing systems of established public service corporations. I have been informed that they desire that contracts of purchase of this nature made between them and such companies, being purely public in character, should not be passed upon or reviewed by the Tennessee Railroad and Public Utilities Commission. If I am correct in the assumption that this change is desired by the Tennessee Valley Authority, I recommend its prompt enactment. I am informed, too, that the Tennessee Railroad and Public Utilities Commission would welcome the express exclusion of such contracts from their jurisdiction."



### TEXAS: Governor Allred

"WHILE I am personally in favor of a reenactment of § 9-C of the Industrial Recovery Act to meet constitutional objections and to enable the Federal government to operate in its constitutional domain (that is, regulation of shipment of illegal oil in interstate or foreign commerce), yet I am firmly of the opinion that the state and the state alone has the power to deal with the production of oil within the state.

"It seems to me it would be well for us to sit down at this time and sanely, dispassionately, and temperately examine our present laws to determine their defects, if any, what the state commission needs and

what this legislature can do to make state control more effective. . . .

"No recovery program can be complete in Texas without the passage of legislation authorizing real regulation of the rates charged by public utilities and without an intelligent solution of the painful and troublesome question of taxation. It is vital that the most rigid economy be practiced in conducting the state's affairs. Each of these subjects is of such importance as to warrant their discussion in special messages. At a later date I expect to submit to you my views upon these subjects."



### UTAH: Governor Blood

"THE committee (appointed to study operation of government) finds that the proper solution of problems dealing with the regulation of public utilities can best be reached through an authoritative regulatory body such as now exists, the public utilities commission. The present statutes confer on the utilities commission much if not all of the desired authority, but restricted appropriations have all but nullified the law.

"Increased appropriations in large amounts under the present condition of state finances are virtually impossible. Partly because of this fact, and partly because of the merits of the plan itself, the committee urges that the utilities shall bear a large portion of the cost of utilities regulation. I strongly recommend that the legislature provide an equitable plan for distribution of the costs between the state and the utilities under regulation."





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### WASHINGTON: Governor Martin

**"I**t is gratifying to note that Washington is feeling the benefits of two of the largest industrial developments in the United States—the Grand Coulee and Bonneville power projects, both of which have been started since the meeting of the 1933 legislature. In fact, the 1933 legislature is entitled to considerable credit for the Grand Coulee project.

"While our members of the Congress worked steadily for the project, the legislature created the Columbia Basin Commission, which obtained \$377,000 from the emergency bond issue, completed necessary surveys and other preliminaries, established the good faith of our state, and thereby won the approval of the President for an allocation of \$63,000,000. Work is well under way on the Grand Coulee project, which, under present plans, will be confined to power. More than 3,000 men are employed on Grand Coulee, all residents of Washington, while nearly 400 of our residents are employed on the Bonneville project.

**"W**HILE it may appear to some that the Columbia Basin Commission has fulfilled its purpose, I recommend that it be continued to work for a power market, to strive for enlargement of the Grand Coulee project to include irrigation, and to form a super-irrigation district of 1,250,000 acres in the Columbia Basin.

"Frankly I am convinced, that the Grand Coulee project will be enlarged to include the so-called high dam and irrigation, which will create an empire in the center of Washington, and my conviction is based on personal observation of the vision and enthusiasm of President Roosevelt.

"... convinced that President Roosevelt favors the high dam and the irrigation of the Columbia Basin, I urge this legislature, the commission, and our citizens in general to work together toward this great development for the benefit of our state and the Pacific Northwest."



### WEST VIRGINIA: Governor Kump

**"S**INCE my inauguration as governor I have done everything that seemed possible to treat legitimate business in this state with every degree of consideration compatible with the public welfare. I have felt considerable impatience with garbled proposals designed to 'regulate' industry, copied hastily from the laws of other states, and too often introduced in this legislature in the spirit of punishment, reprisal, and political aggrandizement. I am well aware of the abuses of large enterprise, and I am thoroughly conversant with iniquities that unrestrained competition, or unregulated monopoly, may bring on an unprotected citizenry. But I am also aware that our state has turned to her great economic groups for more than one half of state aid with which to operate her free schools; that we depend on the public service corporations alone for some 38 per cent of our local and state taxes; and that, in my judgment, our economic future depends upon creating an industrial environment in which enterprise—particularly the wage-paying industries—will seek location, secure from arbitrary, unequal, and discriminatory treatment. It is the wage-paying industries of which we have need. The nonwage-paying industries—namely, those which rely heavily on mechanical equipment and distributing services—are wealth producers, but from the standpoint of employment they do not keep our people at work.

"Our public service commission is charged with the very important duties of maintaining conditions necessary to the industry we

need and essential to the protection of our citizens. In regulating utilities under its jurisdiction, it exercises *quasi* judicial, *quasi* legislative, and investigatory functions. The statute under which it operates is as broad in scope and as flexible in administration as a statute directing a regulatory body should be. I think I can say without fear of authentic contradiction that the work of the public service commission, which assumed its duties at the beginning of this administration, compares most favorably with the leading commissions throughout the country in so far as funds have been made available to carry out its important services.

"In thinking of this work it is often the *quasi* judicial functions of the commission which first attract attention, and, I may say, attack. They are, of course, important. It is fundamental to our ideas of social justice that the consumer of a utility service should have the unrestrained opportunity to make complaint against the practices of a corporation which he considers detrimental to his interest. It is equally fundamental that no citizen, either individual or corporation, shall be required to render a service vested with a public interest, for a price he is unwilling to accept without an adequate opportunity being given to determine the reasonableness of the rate.

**"I**N practice, these viewpoints presuppose an equality of litigants which it is often impossible to realize, and the public service commission must accomplish for the people

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what it is difficult for them to do for themselves. That process of regulation which has given the most thorough protection to the consumer has followed investigatory and administrative methods. With these thoughts in mind, legislation will be presented to strengthen the powers and facilities of the public service commission; and I share the

hope recently expressed by the commissioners themselves that 'the day is not distant when, by unanimous consent, the commission may be accorded the support of facilities for a trained and expert staff whose investigations will command the confidence, respect, and trust of the public and utilities alike.'

*NOTE.—No recommendation for utility legislation was made in the messages of the governors of Arizona, Arkansas, Iowa, Kansas, Nebraska, Ohio, and Oklahoma.*

## Notes on Recent Publications

**GOVERNMENT AND BUSINESS.** By Ford P. Hall. McGraw-Hill Book Co., Inc. New York, N. Y. 1934. 275 pages. \$2.50.

**BUSINESS AND GOVERNMENT.** By Messrs. Rohlfling, Carter, West, and Hervey. The Foundation Press, Inc. Chicago, Ill. 1934. 729 pages. \$4.00.

Both of these works are more or less digressive reviews and analyses of relation of the Federal and state governments in the United States to private business. Mr. Hall's book is systematically laid out and brought up to date, as evidenced by the chapter on control of business through the codes. All types of business especially regulated are reviewed and accordingly there is a short chapter on Federal control of public utilities. The author has apparently confined himself to a purely factual presentation of the extent of governmental administrative control. The joint work of Messrs. Rohlfling, Carter, and West, of the Political Science Department, Wharton School of Finance and Commerce, University of Pennsylvania, and Associate Dean Hervey, of Temple University is much more extensive than Mr. Hall's book, although following a similar plan of presentation. The second work likewise has a special chapter on control of public utilities, in which the joint authors go into considerably more detail than Mr. Hall's work, discussing various regulatory problems. The book contains a selection of pertinent questions and references at the end of each chapter.

**DEPRECIATION.** Paper prepared by Alvin C. Reis, Counsel, Wisconsin Public Service Commission, for the National Association of Railroad and Public Utilities Commissioners. Washington, D. C. November 14, 1934.

Major Reis gives in this paper much interesting argument to support his thesis that depreciation in the utility rate base can be most expeditiously determined by computing current depreciation on a straight-line basis and deducting depreciation re-

serve. He takes the position that the Supreme Court of the United States in *Lindheimer v. Illinois Bell Telephone Co.* [1934] 292 U. S. 151, 3 P.U.R.(N.S.) 337, virtually approved straight-line depreciation accrued on book cost of depreciable property, "thus discarding the deplorable decision in the *United Railways Case*." An appendix listing and digesting court decisions pro and con on the subject accompanied the paper.

**NEW 1934 UTILITY CHART.** By Robert A. Burrows. 323 Fourth Avenue, Pittsburgh, Pa. Size 34 inches x 28 inches. \$2.00 per copy.

A veritable volume of statistical information concerning financial control of public utilities in the United States is crammed into this wall chart without losing clarity, while actually improving perspective impression. Although the author has already established a reputation for such periodic surveys, this latest study is particularly timely by reason of the recent abolition of Federal income tax consolidated return by which holding companies formerly balanced weak sisters against bread-winning subsidiaries. A new feature of Mr. Burrows' chart is a tax ratio figure indicating the amount of 1933 taxes, including Federal income, state, local, and special taxes paid out of each revenue dollar collected. Those interested in utility investment can draw their own conclusions as to where the new Federal tax regulation will hit hardest by studying these ratios. Other new features of the chart include stock symbols, yearly price ranges for securities of 40 companies (six years) and latest estimates of 1934 earnings. The standard features include: (1) Inter-relations of voting stocks for over 380 companies showing per cent holdings; (2) outstanding capitalization showing ratio of class securities; (3) gross revenues; (4) net income; (5) operating ratio indicating comparative efficiency; (6) classification of revenues according to type of utility service; (7) four years' earnings; (8) index, indicating domicile of corporations listed.

# The March of Events

## Holding Company Legislation Introduced in Congress

THE anticipated holding company bill, introduced in Congress February 6th, was more drastic than generally expected. Under the provisions of the bill, utility holding companies would be completely eliminated immediately after January 1, 1940—except in cases where existing law may prevent mergers or where the Federal Power Commission certifies that continuance of a particular holding company is necessary in the operations of a geographically and economically integrated public utility system. As a preliminary step, the Securities and Exchange Commission would be directed to issue an order, immediately after January 1, 1938, "requiring divestment of holdings and property the inclusion of which in a particular system is without public advantage" in the operations of an integrated system. The commission also would be authorized to require dissolution or reorganization of companies "where necessary."

Generally speaking the bill is applicable only to holding companies controlling gas and/or electric utilities. Use of the mails and other instrumentalities is the means taken to enforce provisions of the first part (Title I), which is to be administered by the Securities and Exchange Commission. Here is a thumb-nail sketch with effective dates: (1) Compulsory registration of holding companies—October 1, 1935; (2) regulation, under declaration, of holding security transactions—January 1, 1937; (3) divorce of holding control of electric utilities from the production and transmission of natural gas and from international utility operations (unless exempted by the commission)—January 1, 1937; (4) compulsory abandonment of control of uneconomical operating units—by January 1, 1938, and compulsory dissolution of holding companies themselves by January 1, 1940, unless permitted in the "public interest" to continue; (5) prohibition against intercorporate financial transactions (upstream loans) and against intercorporate sales, service, or construction contracts unless certified by the Federal Power Commission as required by public interest—January 1, 1936; (6) miscellaneous provisions requiring periodical reports, uniform accounting, production of evidence, and generally setting up routine administrative controls.

Two interesting points are: (a) holding companies are forbidden to have any other interest than the gas and electric business

(after January 1, 1937) unless reasonably incidental thereto, or unless such other business is conducted exclusively within a state wherein the state commission approves the same; (b) the SEC, upon doubting the financial responsibility of any holding company may institute proceedings to reorganize it under the new Federal Bankruptcy Act (§ 77b) and in such case the court must make the commission sole trustee.

Title II of the bill contains numerous amendments to the Federal Water Power Act, and adds the "Federal Power Act," which is similar to the laws under which most of the state commissions are operating. The FPC is given jurisdiction over the transmission and sale of electricity in interstate commerce and over the production of energy for such transmission and sale, but not over the retail sale in local distribution. The framers of the bill evidently had in mind ultimate installation of the grid system, since the FPC is directed to establish regional districts designed to secure an abundant supply of electricity with the greatest possible economy and to conserve natural resources. The commission may require interconnection of companies, and a certificate of convenience and necessity would be necessary for new lines. "Actual legitimate prudent cost" is to be determined by the FPC and rates fixed thereon.

The same bill was introduced simultaneously in the House by Representative Rayburn and in the Senate by Senator Wheeler. There is nothing in the bill about taxation, but it is expected this matter may appear later, either as a separate bill (the Treasury Department has one) or in the form of an amendment. Extensive hearings are in prospect before the bill is reported out of the committees.

## Reports on Rate Survey

RATES that vary all the way from \$6.40 in Tacoma, Wash., to \$28.35 in Yonkers, N. Y., for the same amount of electricity were disclosed by the Federal Power Commission recently in a preliminary report to Congress on the cost of electric power throughout the nation, according to *The Washington* (D. C.) *Post*.

The survey covers domestic rates in 191 cities—all those over 50,000 population. It shows that charges in Washington where the Washington Plan is in effect, are among the lowest in the country, ranging from second lowest in the case of 25 kilowatt hours to nineteenth for 500 kilowatt hours.

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In submitting the report, the power commission emphasized that it was strictly "fact finding" and not an inquiry into the "reasonableness" of charges. It declared, however, that "the amazing variety of rate forms" uncovered were not justified.

The investigation embraced about 20,000,000 customers, almost half the nation's total. An analysis showed that 75 per cent of this number use 40 kilowatt hours or less per month, an amount which provides only for lighting and the smallest of appliances.

Figures developed in the survey, which was ordered by Congress at the last session, are expected to play a large part in the administration's campaign to reduce electricity bills. The commission warned, however, against comparing rates without considering all the factors involved.

### Secret Propaganda Activities Denied by TVA

**C**HARGES that the Tennessee Valley Authority was using its funds for "secret propaganda activities in the schools" have been denied by W. L. Sturdevant, TVA director of publicity, according to *The Knoxville Journal*.

The accusations were made recently on the Senate floor by Senator Dickinson (R.) of Iowa. He claimed that a 16-page article on TVA activities, written by Walter E. Myer, editor of *The American Observer*, and published in the December issue of the journal of the National Education Association, was part of the TVA propaganda.

"We engaged Dr. Myer for six weeks," Mr. Sturdevant explained, "to prepare a booklet that we could send in reply to the thousands of inquiries that reach us for information about TVA work. This work has been finished and distributed.

"As to his article in the *NEA Journal*, that was a by-product. None of us saw it before it was published; none of us knew it was being written. Since then, we have ordered reprints of the article."

Senator Dickinson, permanent chairman of the last Republican national convention, hinted that the propaganda had influenced him to guard against further dissemination of information by the TVA.

"When the appropriation for TVA comes before this body for approval," said Senator Dickinson, "I shall bend every effort to obtain adoption of a special prohibition that no moneys expended by TVA either out of its borrowed funds, or from direct appropriation, shall be used in secret propaganda either in the American school system or in any other manner.

"Recently I was astounded to discover the broadcast manner in which the TVA's socialistic doctrines are being spread in the very same underhanded manner of which public

utilities have been accused, and which I was among the first to deplore."

### Proposes Phone Inquiry

**I**N action for the first time under the "liberal" leadership of Senator Wheeler (D.) of Montana, the Senate Interstate Commerce Committee recommended to the Senate February 5th an investigation of the American Telephone and Telegraph Company and an expansion of the regulatory powers of the Federal Trade Commission, according to *The Washington (D. C.) Post*.

The committee reported favorably to the Senate a bill recommended by the trade commission to give it broad power to prohibit "unfair or deceptive acts and practices," aimed particularly at false advertising. The commission's powers, now limited to unfair competition in interstate commerce, also would be extended to practices "affecting" interstate commerce.

An appropriation of \$750,000 was proposed by the committee to permit the communications commission to investigate the American Telephone and Telegraph Company and affiliated corporations, under authority of the same scope given the trade commission to make its 6-year inquiry into power companies.

### Senate Approves McNinch

**F**RANK R. MCNINCH, Democratic chairman of the Federal Power Commission, was confirmed for reappointment January 30th by the United States Senate after a brief battle stirred by revival of the issue of his activity with the anti-Smith forces in North Carolina in 1928. No record vote was taken.

McNinch was opposed by both Democratic Senators from his state—Bailey and Reynolds. The former said he had no hope of defeating confirmation, but wanted to get his position in the record, basing his disapproval on McNinch's past political record. Reynolds confined his opposition to a few remarks and insertion in the record of a letter he had written President Roosevelt on the matter last summer.

Others who spoke in opposition were Senator McCarran, Democrat, of Nevada, who said he did not believe McNinch qualified, and Senator Clark, Democrat, of Missouri, who declared confirmation would be approval of "the policy of intolerance and unfairness which was typical of the 1928 campaign."

To the contrary, Senator Norris, progressive Republican, of Nebraska, joined Senator Wheeler, chairman of the Interstate Commerce Committee, which reported out the nomination, in urging confirmation. Norris said McNinch had made a "wonderful" record as chairman of the power commission.

Chairman McNinch, who has been one of President Roosevelt's principal power advisers,

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ers, was reappointed in June. He was one of the original members named to the commission by President Hoover when it was organized as an independent agency in 1931.

### Plans Natural Gas Probe

SENATOR Gerald P. Nye (R.), of North Dakota, will ask for a Senate investigation of reports that efforts were being made to obtain a monopoly on natural gas production in the United States, according to the *New York Herald Tribune*.

"Detroit, St. Louis, Louisville, Columbus, Toledo, and other cities," said the Senator, "have found grave difficulties in their attempts to obtain natural gas in competition with gas companies. We have definite evidence of organized efforts to prevent them from getting natural gas."

Proposals for a nation-wide fight against alleged monopolistic policies of natural gas utilities were considered recently by representatives of a dozen middle-western cities who sought to create a permanent organization, to be known as the Cities' Alliance for Lower Gas Rates.

The proposals were made at a meeting in Columbus, Ohio, according to the *United Press*, which was attended by mayors or representatives of Detroit, Milwaukee, St. Louis, Minneapolis, Louisville, Toledo, Cincinnati, Dayton, Wheeling, South Bend, Dearborn, and other cities.

Recommendations include: Support of Senator Nye's recommended Senate investigation of the gas business; and a request that the United States Justice Department investigate charges of antitrust law violations by natural gas corporations, prosecuting violators.

### Eastman Reports to Congress

A VAST plan to extend Federal regulation to all important transportation on land, sea, and in the air was recommended to Congress January 30th by Joseph B. Eastman, Federal Coördinator of Transportation, according to the *Associated Press*.

Setting his goal as coördinated, efficient, and economical transportation, Eastman proposed a super-agency, in the form of a re-created Interstate Commerce Commission, to rule the nation's far-flung system of carriers.

He would increase the present commission from eleven to sixteen members, divided into five units:

A finance division of three members; a railroad division of five; a water carrier and pipe-line division of three; a motor carrier and air carrier division of three; and a control board, composed of the chairman of the commission and the heads of the four subsidiary divisions under it.

His plan met with immediate opposition.

Eight of the present ICC membership, in a letter transmitting the report to Congress, asserted reorganization of the commission is unnecessary and undesirable.

Eastman's plan proposes continuation of the office of railroad coördinator, now held by him, to be filled by an ICC member named by the President. His function would be to plan improvements in the nation-wide transportation system. Under a law proposed by Eastman, the coördinator could compel unification of facilities.

He also suggested:

Removal of all transportation from NRA control; amendment of the bankruptcy act to facilitate railroad reorganizations; compensations to men displaced by consolidation of services; speedy legislation to regulate interstate transportation by busses, trucks, and water carriers; and laws enabling the commission to fix minimum rail-water rates.

Eastman has said he favors government ownership of railroads, but in his report he said such ownership is fraught with great possibilities of danger, due to the large nation debt and probable immediate drives for lowered freight rates. He added that he feels strict government control of all types of transportation best at this time.

### Hydro Tax Asked

WITH the problem of relief expenditures uppermost in their minds, the mayors of Ontario, in the closing session of their recent conference in London, Ont., decided to make a drive on the Provincial Government for a change in law empowering them to tax publicly owned hydroelectric power systems.

Though the plan was proposed by Mayor H. E. Wilton of Hamilton, and strongly supported by Mayor Anderson of Niagara Falls—cities which have special feelings on the subject—it met approval by a vote of 16 to 13, according to *The (Toronto) Globe*.

"It is a matter entirely for the legislature," declared T. Stewart Lyon, chairman of the Hydro Electric Power Commission, in commenting on the resolution requesting the government to grant municipalities the right to tax hydro properties.

"The Ontario commission," the chairman added, "does not propose to take part in any controversy."

### Municipalities to Own Hydro

OWNERSHIP of Ontario's \$400,000,000 hydro venture is to be placed indisputably with the hydro municipalities, according to a statement in *The (Toronto) Globe*.

Hydro Chairman T. Stewart Lyon made this tremendously important pronouncement to the "hydro parliament"—the annual gathering of hydro municipal representatives—in convention recently at the Royal York Hotel.



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To settle the ownership question, which had become a matter of some doubt and considerable Ontario apprehension, the Ontario Hydro Electric Commission will take over the financial obligations incurred by the Province for the financing of the great public ownership project.

In pursuance of agreement reached between

the Provincial Commission and the Ontario Cabinet, the first direct step toward the return of hydro to the municipalities is to be taken this year, when the first portion of provincial bonded debt, incurred fifteen years ago for the construction of Chippawa, comes up for renewal; it will be refunded as a bond issue of the provincial hydro commission.

## District of Columbia

### Electric Rate Cut Again

A TOTAL reduction of \$147,821, which is approximately \$7,000 more than called for in the company schedules, was ordered January 31st in the electric power rates in the District by the public utilities commission,

according to *The (Washington, D. C.) Evening Star*. The new rates were effective February 1st.

The greatest portion of this reduction was in the domestic rates. The electric bills of District housewives will be reduced \$73,293 as a result of the order.

## Georgia

### Ratifies Commission Ouster

WITH only three dissenting votes, all of them in the senate, the assembly January 24th opened its regular 60-day biennial

session by ratifying speedily Governor Talmadge's executive order of July 21, 1933, ousting the old public service commission. The vote in the senate was 41 to 3, while in the house it was 189 to 0.

## Kentucky

### PSC Starts Phone Probe

UNDER power vested in it by an act of the 1934 General Assembly, the public service commission recently started an investigation of local and long-distance telephone rates and other charges made to consumers by the Southern Bell Telephone and Telegraph Company, which operates in many Kentucky com-

munities, according to *The Courier-Journal*.

Louis Cox, secretary of the commission, said the telephone company was ordered to file with the commission detailed records on operating costs, actual costs, investments, and other data needed for the investigation. The inquiry, Cox declared, was ordered by the commission of its own volition with a view to "determining if existing rates are fair."

## Maine

### Expect Approval of "Quoddy"

GOVERNOR Louis J. Brann, Maine's first Democratic governor in sixteen years, after a recent conference with President Roosevelt, left Washington apparently convinced that the Passamaquoddy power development will be approved by President Roosevelt as soon as the \$4,000,000,000 works' fund becomes available, according to *The Washington (D. C.) Post*.

This is the huge project for "harnessing" the high tides that sweep into the Bay of Fundy. Original plans, estimating the cost at \$47,000,000, were turned down last year by PWA as unfeasible. Figures have been cut to \$30,000,000, however, and there was every reason to believe that approval will now be granted.

Passamaquoddy is located at the tip end of Maine just across from the President's summer place at Campobello, N. B. He has al-



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ways shown keen interest in the proposal, whereby the tides would be "harnessed" by

the construction of an extensive dam and power plant.

### Maryland

#### PSC Rejects Rate Plan

**T**HE public service commission recently rejected a new schedule of rates filed by the Potomac Edison Company, according to a statement published by the *Associated Press*.

The commission held the amended schedule did not affect the \$325,000 reduction ordered January 4th for Maryland consumers.

The rates submitted in answer to this order could not be accepted, the commission contended, because the utility had allocated

one third of the total reduction to its out-of-state subsidiaries.

The commission suggested that the company submit another schedule effecting the full amount of the ordered reduction in Maryland.

Potomac Edison serves Western Maryland counties and sections in Virginia, West Virginia, and Pennsylvania. The commission ordered the reduction to take place in February billings, and threatened to enforce a schedule of its own if the utility company did not submit a satisfactory one.

### Michigan

#### Seek Washington Plan Proposal

**M**EMBERS of the Detroit council recently invited the Detroit Edison Company and the Detroit City Gas Company to submit proposals patterned after the Washington Plan.

Under this plan, so named because it origi-

nated in Washington, D. C., where it has worked successfully, the city and utilities would agree on actual property valuations, and rates the companies would be permitted to earn on investments. Then if rates charged yielded larger earnings, the surplusage would be divided between the companies and consumers, and rates cut automatically.

### Mississippi

#### Rate Case Enters U. S. Court

**A**NOTHER step in the legal march of Jackson's suspended electric rate ordinance was taken recently when Judge Edwin R. Holmes granted the Mississippi Power and Light Company an appeal to the United States Circuit Court of Appeals from his decision holding that he had no jurisdiction to hear the case under the "Johnson Act."

Granting of the appeal was accompanied by a writ of supersedeas, which forbids oper-

ation of the rate ordinance until the appeal of the power company is passed upon by the appellate court. The ordinance, according to the *Associated Press*, was originally scheduled to go into effect January 5th, but Judge Holmes granted a restraining order suspending its operation until he could make a study of jurisdictional questions involved in the power company's petition for an injunction and a judgment declaring the rates confiscatory and in violation of the Federal Constitution.

### Missouri

#### Cuts Light Rate for Schools

**P**UBLIC, parochial, and private schools of St. Louis and St. Louis county will benefit by a reduction in electric rates, beginning February 15th, according to the *St. Louis Daily Globe Democrat*.

Officials of the Union Electric Light and Power Company said the rate cut will lower the electric bill of city and county schools about 30 per cent and result in a saving to them of between \$25,000 and \$35,000 annually.

Schools at present get lighting current under a commercial rate, a combination of en-

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ergy charge and a demand charge. The energy charge varies from  $3\frac{1}{2}$  cents a kilowatt hour to  $1\frac{1}{2}$  mills. The new rate will be an energy charge of  $3\frac{1}{2}$  cents per kilowatt hour,

with a  $\frac{1}{2}$ -cent discount if bills are paid within ten days.

The new rate does not apply to universities, company representatives said.

## New Jersey

### Quick Rate Cut Plan Approved

A NEW plan for temporary public utility rates, pending determination through formal proceedings, will be tried by New Jersey if proposals agreed upon recently by Governor Hoffman and the public utilities commission are enacted into law, according to the *Newark Evening News*.

The plan, briefly, is to authorize the commission "to negotiate and agree" with a public utility company on temporary rates, subject to revision upon conclusion of formal rate hearings.

This proposal, in the opinion of the conferees, is preferable to the one to empower the commission to "fix" temporary rates arbitrarily, as the latter plan of prescribing rates has not been successful in court tests.

The idea, it was explained by Frank H. Sommer, counsel to the commission, is to permit the commission to agree to rates without automatically giving the agreement the effect of ending the pending proceedings. Under present public utility laws the board can fix rates only after hearings. It is the legal difficulty of limiting such hearings which handicaps the proposal or temporary rate fixing.

### Camden PWA Loan Rescinded

THE Public Works Administration recently rescinded an allotment of \$6,000,000 made to the city of Camden for erection of

a municipal electric light and power system.

The PWA gave failure to the state legislature to remove legal barriers to the project as the reason for the action.

It was stated that the need for the plant never was questioned, and that only legal obstacles stood in the way.

In announcing the revocation of the allotment, made on July 5, 1934, PWA Administrator Ickes stated that if the state legislature acts favorably on legislation which has been suggested in the interest of the projects and if the state courts uphold the validity of the referendum which authorizes construction of the proposed project, PWA will reopen and reconsider the application if Camden desires that this be done.

Four bills are pending in the legislature, which, if passed, will eliminate all legal difficulties in the way of the power plant and the PWA loan.

Senator Albert S. Woodruff introduced enabling legislation into the legislature last fall, but the measures died in committee because unanimous consent to bring them up could not be obtained.

The new bills are said to be "air tight" and make further objection impossible on any legal technicality. An objection to the Woodruff bills was that they would "lift the lid off bonded indebtedness."

The new bills meet that objection by inserting a clause providing that a municipal light plant may be constructed without regard to debt limit only if it first has been approved at an election.

## New York

### Pass Utilities Measure

THE assembly January 23rd passed and sent to Governor Lehman the Burchill-Sullivan Bill requiring public utility companies to hold public biddings on all construction contracts involving more than \$25,000, according to the *Associated Press*.

The Kelly-Dunn Bill, extending for one year the life of New York state's milk control law, also was passed by the assembly and sent to Lehman.

The utilities measure was the only one of the governor's utility bills that failed to pass at the last session of the legislature.

### PWA to Erect Power Unit

THE government January 31st took its first definite step toward entering the electric power business in New York city, according to *The Washington (D. C.) Post*. Secretary Ickes, PWA administrator, allotted \$3,780,000 for erection of a power plant in that city, primarily for the purpose of supplying current to Federal buildings. At present the government is buying power there and has been protesting against high rates.

The money was turned over to Admiral Christian J. Peoples, head of the Procurement Division of the Treasury. It will be used for

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buying land, building a main plant and substations, and for connecting with the proposed municipal power system in the city of New York.

It is estimated that government purchases of power now totaling \$700,000 a year will be eliminated. Ickes estimated that the annual savings would amount to \$152,690 the first year and would increase to \$308,020 within fourteen years.

### Utility Files Rate Cut Plan

UTICA Gas & Electric Company, a subsidiary of the Niagara Hudson Power Corporation, has applied to the public service commission for approval of a new schedule for electric rates which would result in year-

ly savings for consumers of \$143,000. This would make total rate reductions since 1929 of about \$585,977, according to *The Wall Street Journal*. The new rates would become effective March 1, 1935, except for a small rural territory, filing for which is to be made in a few weeks' time.

The schedule provides a minimum charge of 95 cents monthly for which 12 kilowatt hours would be given; the next 28 kilowatt hours would be at 6 cents a kilowatt hour; the next 160 3 cents, and all over 200 2 cents. The old rate provided for a minimum charge of \$1. The first 30 kilowatt hours monthly at 7½ cents; the next 70 5 cents, and all over 100 3 cents. The new schedule also is to be supplemented by a "Share-the-Benefits" plan under which rates will become lower and lower as the average use of electricity increases.

## Oregon

### Rescinds PWA Loan

T IRED of waiting for Salem to start construction on a water system to which he allocated \$2,500,000, Administrator Ickes, PWA, recently rescinded this allotment, according to *The Morning Oregonian*. The original allotment was \$1,500,000; later another million was earmarked.

For more than a year Salem officials have been unable to negotiate with owners of the present private system or to agree on a pro-

gram. Ickes announced recently that unless a start was made the money would be canceled, as PWA funds are intended to create employment. The Salem allotment was the largest given to Oregon by the administrator.

Also rescinded was \$68,000 for the Sandpoint, Idaho, water system, because voters defeated the bond issue.

City officials said they were not discouraged by Secretary Ickes' action and immediately began preparing to make a new application.

## Pennsylvania

### Files Lower Electric Rates

T HE public service commission recently announced the West Penn Power Company will file new rate schedules estimated to save the concern's patrons \$686,000 a year, according to the *Associated Press*.

The new rates are to become effective after meter readings covering the period from

March 15th to April 14th. The commission said:

"In addition to the reductions announced today, the company, cooperating with the commission has, since January 1, 1935, made annual reductions estimated at \$20,000 in its rural rates, not previously announced, and also \$34,000 in its street lighting rates, and \$37,800 in its general service rates."

## Tennessee

### TVA Power for Dayton

D AYTON recently became the second city in Tennessee to acquire its power from the TVA. Pulaski was the first city to obtain its power, according to an item in *The Nashville Banner*.

The municipal system which has served the city, Mayor Taylor said, has paid a profit

every year, but the city government is confident that, with added use of power, an even larger profit will be obtained under the new system. Mayor Taylor introduced a number of visiting mayors from other East Tennessee municipalities.

It was claimed that TVA power in Dayton would mean a saving of about \$12,000 annually.

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### Clears Way for TVA Power

Governor McAlister January 25th signed a bill clearing the way for TVA elec-

tricity for Chattanooga, according to the *Nashville Banner*. The bill would permit the city to acquire a distribution system and take other steps to procure TVA power.

## Texas

### Forecloses on City Utility

District Judge W. M. Taylor in the fourteenth district court January 9th entered judgment for the Municipal Acceptance Corporation of Chicago against the city of Seymour for foreclosure of its lien upon the municipal electric light plant and distribution system.

The corporation in its amended petition stated it purchased notes made payable to the Fairbanks, Morse & Company who built the plant for Seymour and asked it be given \$150,000 judgment.

The Seymour plant was purchased in ac-

cordance with Articles 1111-18, Revised Civil Statutes of the state of Texas. The purchase contract expressly provided that the holder of the indebtedness should never have the right to demand payment of the obligation out of funds raised or to be raised by taxation.

The refinancing contract provided that the city "hereby grants and agrees to grant to any purchaser of the municipal light plant or system under sale or foreclosure of the liens securing payments above mentioned, a franchise to operate said plant or system so purchased for a term of twenty years after such purchase."

## Virginia

### Suggest Another Rate Cut

AN increase of 4,000 customers, most of them residential users of electricity, has been recorded during the past year by the Virginia Electric and Power Company and is believed largely responsible for the new move by the state corporation commission to reduce the rates of the company further,

according to *The Richmond News-Leader*.

According to the records of the commission the company has obtained a wider distribution of power under the present rates, and can maintain a fair return on its investment on a lower scale.

The Vepco has cut its rates five times in the past ten years, and on no occasion have the power rates been increased.

## West Virginia

### Power Measure Proposed

DEVELOPMENT of water-power possibilities of West Virginia under state control along lines that will not interfere with Federal government projects is proposed in a bill introduced by Senator Earl H. Smith.

The bill is similar to the measure introduced at a previous session, according to *The Charleston Gazette*, and provides for a water-power authority of five members empowered "to construct dams, power stations, and distribution lines and issue bonds for the payment of these projects."

## Wisconsin

### Rate Cuts Total \$2,276,682

UTILITY rate reductions of \$2,276,682, affecting 690,282 customers, were made by the public service commission during 1934.

In the utility, securities, and transportation fields, the commission held 7,036 hearings and concluded 6,979 cases. No tabulation is kept

of transportation rate reductions many of which are made jointly with the Federal Interstate Commerce Commission.

Of the utility rate reductions \$701,212 affected 166,950 electric users, \$1,136,814 was for 341,851 telephone subscribers; \$59,260 for 41,106 gas customers, and \$379,456 for 140,375 water users.

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# The Latest Utility Rulings

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## Manufacturer's Rate Is Not Applicable to Air Conditioning in Restaurant Dining Room

THE New York commission has dismissed a complaint by the owner of a restaurant against charging for electricity used for air conditioning in the restaurant dining room as commercial current rather than manufacturing current. The commission made its ruling on the basis of existing classifications, but expressed the opinion that there should be a revision of electric schedules to eliminate artificial distinctions based upon "purpose of use" and the revision of requirements as to "guaranties" and excessive "minimum payments" regardless of use.

The company was furnishing current for the kitchen under the manufacturer's rate, while it was furnishing current to the dining room under the commercial rate. The customer, upon installing air-conditioning equipment in the dining room, combined its refrigeration equipment so that current used for air conditioning was included in the service to the kitchen.

The company insisted that air conditioning in the dining room should be segregated and current for that purpose included under the commercial service classification, since the conduct of a restaurant could not be considered a manufacturing enterprise. The cus-

tomers insisted that the process by which the ice machine cools the brine, which in turn cools the water, which finally cools the air, "is just as much manufacturing as the process by which the foods in the refrigerators are cooled, and the processes by which meat, vegetables, and pastry are converted from raw into finished products for service in the dining room of the establishment." It further contended that the premises should be deemed to be operated as a unit and entitled to one classification as a manufacturing establishment. The hearing officer, in his report, said:

From a pure business standpoint, the energy consumed by the air-conditioning equipment is a part of the consumer's commercial expense in supplying comfortable conditions in the dining rooms for the consumption of finished products, namely, prepared foodstuffs. This expense cannot be construed as representing a part of the production or manufacturing expenses involved in the preparation for consumption of basic raw food products. Likewise, the retail or dining room portion of the complainant's premises cannot be construed as a part of the kitchen or manufacturing portion of consumer's premises.

*Drake's Restaurant, Inc. v. United Electric Light & Power Co. (Case No. 8320).*



## Revenue Loss under Token Plan Invalidates Commission Order

LAST November the Minnesota commission ordered the St. Paul City Railway Company and the Minneapolis Street Railway Company to sell tickets or tokens at the rate of two for 15 cents in order to lighten the burdens of the poor. The order has been set aside

by the district court of Ramsey county.

At the trial it was stipulated by the parties that in order to eliminate questions of values and fair return the order might be set aside if the court found that the commission order would have the effect of "materially diminish-

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ing the revenues of the companies." The court found that this would be the effect. It was said in the memorandum of Judge Michael:

This was the manifest purpose of the order, and common experience, aside from

the testimony of witnesses of long experience in the business, tells us this would be true.

A contrary contention makes of the order little else than an idle gesture.

*State v. St. Paul City Railway Co. et al.*

### Advance Billing Is Restricted

THE New York commission has concluded that Class A water companies (those having an annual average water operating revenue of \$100,000 or over) should be required in billing in advance to render bills to consumers for periods not longer than quarterly, except companies billing semiannually in the middle of the service period, and except bills for public and private fire protection.

As to companies serving principally summer resort communities there seemed some justification for the prac-

tice of annual billing in advance, and it was believed that an exception should be made for seasonal consumers. The commission was of the opinion that any order to be made should be restricted to service for general uses and not be made applicable to special services such as private or public fire protection and building construction, since billing for these special services is not a material part of the total billing and because of the nature of the service rendered. *Re Rules and Practices of Certain Waterworks Corporations (Case No. 8255).*

### Pennsylvania Requires Approval of Loan to Telephone Subsidiary

THE Pennsylvania commission has construed the statute enacted in 1933 relating to transactions between affiliated interests so as to cover loans made by the American Telephone and Telegraph Company to operating companies. The loans in question were evidenced by demand notes.

The Bell Telephone Company of Pennsylvania contended that the approval of the commission was not required in transactions of this nature because, in the first place, the section relating to commission approval of transactions with affiliated interests did not cover this type of transaction, and, in the second place, if under the language of the statute approval was necessary, that requirement was negated by other provisions of the Public Service Company Law to the effect that provisions relating to certificates of public convenience do not apply to the issuance of evidences of indebtedness payable at periods of less than twelve months.

The commission ruled that the statutory requirement of approval covered any type of assumption of an obligation, including primary obligations and obligations secondarily as guarantor, endorser, or otherwise. It was said that the law covered all cases where the operating company assumes any obligation to the holding company, including the borrowing of money from it.

As to the second contention of the company it was ruled that transactions between public service companies and affiliated interests or holding companies were not within the contemplation of the legislature which enacted the provision containing the 12-month clause. The later amendment relating to transactions between affiliated interests was held to control without any restrictive effect being given to the general statute relating to approval of securities. *Public Service Commission v. Bell Telephone Co. of Pennsylvania (Complaint Docket No. 10355).*



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### Bus Substitution for Street Cars Is Not Barred by Administrative Orders of Courts

THE South Carolina Supreme Court has sustained a decree by a lower court directing the substitution of busses for street cars in the city of Charleston on a street about to be paved. Such substitution was sought by the city, consented to by the street railway, and at first approved by the commission; but later authorization was withdrawn on the theory that the commission lacked jurisdiction.

This transportation system was involved during recent years in considerable litigation, which reached the United States Supreme Court, where it was held that the Broad River Power Company and the Columbia Railway, Gas & Electric Company were obligated to furnish street car service in Charleston as long as they furnished gas and electric service under their franchise. Serv-

ice had been discontinued during the litigation, and the state supreme court, acting essentially as an administrative body, issued several orders relating to rehabilitation of the system.

Some of these orders directed bus service on certain lines and street car service on other lines. One of the orders refused authority to substitute busses for street cars on the very line under consideration in the instant proceeding.

These orders, however, according to the ruling of Judge Mann, sustained by the supreme court, were not *res adjudicata* and a bar to further exercise of administrative or regulatory functions by the commission for the purpose of providing an adequate transportation system. *Columbia v. Tatum et al.* 177 S. E. 541.



### Equality of Treatment in Connection with Deposit Requirements

THE Massachusetts Department of Public Utilities found that no order was required in connection with a petition by proprietors of a restaurant who objected to a demand for a large deposit since service was still being rendered. The commission expressed its views, however, as follows:

We understand that it is the practice of the company to extend credit to the large majority of its customers who pay promptly without a deposit. So long as the com-

pany extends credit to its customers generally without requiring a deposit, we doubt the propriety of demanding a deposit as a condition precedent to continuing the service of one of its customers who it is serving and who has paid his bills promptly when it does not take a like attitude with all others similarly situated. Such action, it would seem, would result in a discriminatory practice.

*Damato & Mekelburg v. Edison Electric Illuminating Co. of Boston* (D. P. U. 4897).



### Other Important Rulings

THE Colorado commission dismissed a complaint relative to the amount of an electric bill where the charge was based on a meter reading, although the customer was of the opinion that she could not possibly have used the amount

of current represented by the bill. *Styer v. Evergreen Public Service Co.* (Case No. 1417, Decision No. 6040).

Authority to operate as a contract carrier cannot be granted to a minor